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REPORT OF THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION*

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LETTER OF TRANSMITTAL

19 August 1994

Sir,

The Committee's report for 1993 detailed the action it had taken in response to the invitation to consider ways to bring to your attention massive violations of human rights (A/48/18, annex III). During 1994, the Committee has utilized its new procedures to send good offices missions to the Federal Republic of Yugoslavia (Serbia and Montenegro) and Croatia, to conduct reviews of the situations in Burundi and Rwanda, and to request additional information from Israel and, in different terms, from Argentina and the United Kingdom of Great Britain and Northern Ireland. These actions are described in chapter II.

In our review of the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination in Rwanda, conducted on 9 March 1994, the Committee took note of the findings of a group of non-governmental organizations in the Rapport de la Commission internationale d'enquête sur les violations des droits de l'homme au Rwanda depuis le 1er octobre 1990 [Report of the International Commission of Inquiry into Human Rights Violations in Rwanda since 1 October 1990], published 12 months earlier. Subsequent events have proved the accuracy of that report's diagnosis of the threats to peace in Rwanda. The Commission's recommendations were well-judged, but they received too little support from the international community - with results that have been only too tragic. Subsequent events in Rwanda have also demonstrated that it would be more effective to take preventive action before open hostilities break out. Procedures for early warning and urgent action desperately need improvement.

The World Conference on Human Rights recommended that treaty bodies and other organs review reporting procedures in order, by better coordination, to improve their efficiency and effectiveness (Vienna Declaration and Programme of Action (A/CONF.157/24 (Part I)), chap. III, sect. II.E, paras. 87-89). The Committee on the Elimination of Racial Discrimination regularly reviews its working methods with these objectives in mind. It plans its timetable so as to respond expeditiously to the periodic reports submitted by States parties. During 1994, it considered 32 reports submitted by 14 States parties. The Committee uses its powers to call for additional information when it is concerned about current developments, as described above. The Committee was the pioneer in devising a procedure to review implementation of the Convention in States, the submission of whose reports was seriously overdue; this year it has conducted such reviews in respect of six States. There is currently no backlog of reports still awaiting consideration because of any delay for which the Committee is responsible.

Mr. Boutros Boutros-Ghali
Secretary-General
United Nations Headquarters
New York

As part of the review of its procedures, the Committee has this year modified the structure of its report to the General Assembly. Since we believe that the prevention of racial discrimination should receive priority in our work, we have brought this section forward to chapter II. We have changed the sequence of certain chapters so that matters of substance come before matters of a formal nature.

The Committee has discussed the question of succession to treaty obligations arising from the dissolution of States, and has written to those States of the former Soviet Union that have not so far declared their adherence to the Convention (see annex V).

In 1991 the Committee decided that it would in future adopt "concluding observations" expressing the collective view reached as a result of the examination of a State party's report. Circumstances differ very much from one State to another, but the Committee has nevertheless to treat all States equally. This has made the drafting of concluding observations a very time-consuming process. Originally, the concluding observations were seen as conclusions to the summaries of the dialogues with State parties which appeared in the Committee's annual report published each October. However, since interest in the concluding observations is greatest immediately following the examination of a State party's report, the Committee has agreed that its concluding observations should be made available at the end of each session. The Committee also agreed that those concluding observations must be comprehensible to readers who do not have before them the summaries that will precede those observations in the annual report. The Committee therefore decided at its forty-fourth session that these concluding observations should have two main sections: "principal subjects of concern" will reflect members' questions and comments; while "suggestions and recommendations" will express only collective views.

In response to an individual communication which raised the question of possible bias on the part of a juror, the Committee adopted an opinion which is reproduced in annex IV.

Finally, Sir, I take pleasure in mentioning one of the most hopeful events of the past year, the installation of a new and democratic government in South Africa. The general revulsion from segregationist policies in southern Africa was one of the forces that led in 1965 to the adoption of the International Convention on the Elimination of All Forms of Racial Discrimination. The ending of apartheid does not mean that the Convention's goals have been attained. Racial discrimination as defined in the Convention can occur anywhere in the world. Events referred to earlier in this letter, and at greater length in the body of the report, show that action against racial discrimination needs to remain one of the priorities of the United Nations.

Accept, Sir, the assurances of my highest consideration.

(Signed) Ivan GARVALOV
Chairman
Committee on the Elimination
of Racial Discrimination

I. ORGANIZATIONAL AND RELATED MATTERS

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination

1. As at 19 August 1994, the closing date of the forty-fifth session of the Committee on the Elimination of Racial Discrimination, there were 139 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted by the General Assembly in its resolution 2106 A (XX) of 21 December 1965 and opened for signature and ratification in New York on 7 March 1966. The Convention entered into force on 4 January 1969 in accordance with the provisions of its article 19.

2. By the closing date of the forty-fifth session, 20 of the 139 States parties to the Convention had made the declaration envisaged in article 14, paragraph 1, of the Convention. Article 14 of the Convention entered into force on 3 December 1982, following the deposit with the Secretary-General of the tenth declaration recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals who claim to be victims of a violation by the State party concerned of any of the rights set forth in the Convention. The lists of States parties to the Convention and of those which have made the declaration under article 14 are contained in annex I to the present report.

B. Sessions and agenda

3. The Committee on the Elimination of Racial Discrimination held two regular sessions in 1994. The forty-fourth (1013th-1040th meetings) and forty-fifth (1041st-1069th meetings) sessions were held at the United Nations Office at Geneva from 28 February to 18 March and from 1 to 19 August 1994 respectively.

4. The agendas of the forty-fourth and forty-fifth sessions, as adopted by the Committee, are reproduced in annex II.

C. Membership and attendance

5. In accordance with the provisions of article 8 of the Convention, the States parties held their fifteenth meeting at United Nations Headquarters on 17 January 1994 1/ and elected nine members of the Committee from among the candidates nominated to replace those whose term of office was due to expire on 19 January 1994.

6. The list of members of the Committee for 1994-1996, including those elected or re-elected on 17 January 1994, is as follows:

Name	Country of nationality	Term expires on 19 January
Mr. Mamoud ABOUL-NASR**	Egypt	1998
Mr. Hamzat AHMADU**	Nigeria	1998
Mr. Michael Parker BANTON**	United Kingdom of Great Britain and Northern Ireland	1998
Mr. Theodoor van BOVEN	Netherlands	1996
Mr. Andrew CHIGOVERA*	Zimbabwe	1998
Mr. Ion DIACONU	Romania	1996
Mr. Eduardo FERRERO COSTA	Peru	1996
Mr. Ivan GARVALOV	Bulgaria	1996
Mr. Régis de GOUTTES**	France	1998
Mr. Carlos LECHUGA HEVIA**	Cuba	1998
Mr. Yuri A. RECHETOV	Russian Federation	1996
Mrs. Shanti SADIQ ALI	India	1996
Mr. Agha SHAHI**	Pakistan	1998
Mr. Michael E. SHERIFIS**	Cyprus	1998
Mr. SONG Shuhua	China	1996
Mr. Luis VALENCIA RODRIGUEZ	Ecuador	1996
Mr. Rüdiger WOLFRUM**	Germany	1998
Mr. Mario Jorge YUTZIS	Argentina	1996

7. All members of the Committee attended the forty-fourth and forty-fifth sessions.

D. Solemn declaration

8. During early meetings of the forty-fourth session, those members of the Committee who were elected or re-elected at the fifteenth meeting of States parties made a solemn declaration in accordance with rule 14 of the rules of procedure of the Committee.

E. Election of officers

9. At its 1013th meeting, on 28 February, the Committee elected the following officers for a term of two years (1994-1996), in accordance with article 10, paragraph 2, of the Convention:

Chairman: Mr. Ivan GARVALOV

Vice-Chairmen: Mr. Hamzat AHMADU
Mr. Carlos LECHUGA HEVIA
Mr. Michael SHERIFIS

Rapporteur: Mr. Michael Parker BANTON

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* Elected on 17 January 1994.

** Re-elected on 17 January 1994.

F. Cooperation with the International Labour Organization and the United Nations Educational, Scientific and Cultural Organization

10. In accordance with Committee decision 2 (VI) of 21 August 1972 concerning cooperation with the International Labour Organization (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO), 2/ both organizations were invited to attend the sessions of the Committee.

11. At the forty-fifth session, the report of the ILO Committee of Experts on the Application of Conventions and Recommendations, submitted to the International Labour Conference at its eighty-first session, was made available to the members of the Committee on the Elimination of Racial Discrimination, in accordance with arrangements for cooperation between the two Committees. The Committee took note with appreciation of the report of the Committee of Experts, in particular of those sections that dealt with the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Indigenous and Tribal Populations Convention, 1957 (No. 107), as well as other information in the report relevant to its activities.

G. Other matters

12. At its 1039th meeting (forty-fourth session), on 17 March 1994, the Committee discussed the fact that eight new States in the territory of the former Soviet Union (Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Lithuania, Tajikistan, Turkmenistan and Uzbekistan) still had not announced their intention of adhering to the Convention. Whereas the former Soviet Union had been a State party to the Convention, there was now a significant part of that territory where the population was no longer covered by the protection of the Convention. Members agreed that this was a matter of great concern and, as a result, the Committee decided to request its chairman to address urgently a letter to the ministers for foreign affairs of those States underlining that the Committee considered it of the utmost importance that the applicability and compliance with the Convention's provisions be confirmed by those States as soon as possible, and inviting the respective Governments to make the appropriate notification to the Secretary-General of the United Nations, as depositary of the Convention. The full text of the letter is contained in annex V.

13. The Assistant Secretary-General for Human Rights addressed the Committee at the opening of both the forty-fourth and forty-fifth sessions (see CERD/C/SR.1013 and 1041). He also met with the Committee at its 1050th meeting, held on 5 August 1994, to discuss a number of issues of concern to the Committee.

14. The United Nations High Commissioner for Human Rights addressed the Committee at its 1061st meeting, on 15 August 1994, and discussed a number of issues with the Committee, particularly efforts to prevent serious human rights violations and possible ways to coordinate more effective responses.

15. At its 1067th meeting (forty-fifth session), on 18 August 1994, the Committee paid tribute to Mr. Enayat Houshmand who had recently retired from his service with the United Nations and who had made substantive and dedicated contributions to the Committee since its beginning in 1970.

H. Adoption of the report

16. At its 1069th meeting, on 19 August 1994, the Committee adopted its annual report to the General Assembly.

II. PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES

17. The Committee decided at its forty-fifth session to establish this point as one of its regular and principal agenda items.

18. At its forty-second session (1993), the Committee noted the conclusion adopted by the fourth meeting of persons chairing the human rights treaty bodies that:

> "the treaty bodies have an important role in seeking to prevent as well as to respond to human rights violations. It is thus appropriate for each treaty body to undertake an urgent examination of all possible measures that it might take, within its competence, both to prevent human rights violations from occurring and to monitor more closely emergency situations of all kinds arising within the jurisdiction of States parties. Where procedural innovations are required for this purpose, they should be considered as soon as possible." (A/47/628, para. 44)

19. As a result of its discussion of that conclusion of the meeting of chairpersons, the Committee, at its 979th meeting, on 17 March 1993, adopted a working paper to guide it in its future work concerning possible measures to prevent, as well as more effectively respond to, violations of the Convention (see A/48/18, annex III). The Committee noted in its working paper that efforts to prevent serious violations of the International Convention on the Elimination of All Forms of Racial Discrimination, would include the following:

(a) Early warning measures: These would be aimed at preventing existing problems from escalating into conflicts and would also include confidence-building measures to identify and support structures to strengthen racial tolerance and consolidate peace in order to prevent a relapse into conflict in situations where it has occurred. In that connection, criteria for early warning could include some of the following concerns: the lack of an adequate legislative basis for defining and criminalizing all forms of racial discrimination, as provided for in the Convention; inadequate implementation or enforcement mechanisms, including the lack of recourse procedures; the presence of a pattern of escalating racial hatred and violence, or racist propaganda or appeals to racial intolerance by persons, groups or organizations, in particular by elected or other officials; a significant pattern of racial discrimination evidenced in social and economic indicators; and significant flows of refugees or displaced persons resulting from a pattern of racial discrimination or encroachment on the lands of minority communities.

(b) Urgent procedures: These would be aimed at responding to problems requiring immediate attention to prevent or limit the scale or number of serious violations of the Convention. Possible criteria for initiating an urgent procedure could include the presence of a serious, massive or persistent pattern of racial discrimination; or that the situation is serious and there is a risk of further racial discrimination.

20. The following sections describe action taken and decisions and recommendations adopted by the Committee at its forty-fourth and forty-fifth sessions within the framework of its efforts to prevent racial discrimination.

A. Action taken by the Committee

Federal Republic of Yugoslavia (Serbia and Montenegro)

21. In its decision 1 (42), the Committee had expressed its grave concern over the ongoing ethnic conflict taking place in the territory of the former Yugoslavia and had requested the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro), as well as other successor Governments, to submit by 31 July 1993 additional information on the implementation of the Convention in its territory. The information received (see CERD/C/248) from the Government of Yugoslavia (Serbia and Montenegro) was considered by the Committee at its 1003th to 1006th meetings, during its forty-third session, on 13 and 16 August 1993 (see CERD/C/SR.1003-1006). During that consideration, the representative of the State party declared his Government's willingness to fulfil its obligations under the Convention and to cooperate with the Committee, as well as other international bodies, in the search for constructive solutions (see A/48/18, para. 529).

22. Taking into account that willingness expressed by the Government during the consideration of the matter and the need to promote a dialogue between the Albanians in Kosovo and the Government, the Committee, in its concluding observations, offered its good offices in the form of a mission of its members. The purpose of the mission would be to help promote a dialogue for the peaceful solution of issues concerning respect for human rights in Kosovo, in particular the elimination of all forms of racial discrimination and, whenever possible, to help the parties concerned to arrive at such a solution (see A/48/18, para. 546). The Committee had requested the State party to respond by 1 October 1993 if it wished to accept that offer. The response was subsequently received and a mission consisting of three Committee members (Mr. Hamzat Ahmadu, Mr. Yuri Rechetov and Mr. Rüdiger Wolfrum) visited the Federal Republic of Yugoslavia (Serbia and Montenegro) from 30 November to 3 December 1993.

23. During its visit, the good offices mission met with authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro), and the Republic of Serbia, the Serbian authorities in Kosovo and representatives of the ethnic Albanians of Kosovo. The mission had no difficulty in establishing contacts and expressed appreciation for the close cooperation of all the authorities and individuals contacted as well as the very frank and open nature of the exchange of views. The members of the mission felt that there was a need for its continuation since during the visit they had received positive indications that the mission might be able to accomplish the task with which it was entrusted.

24. At its forty-fourth session, the Committee considered, in private meetings, the interim report of the good offices mission. As a result of that consideration, the Committee requested its chairman to address a letter to the Minister for Foreign Affairs of the Federal Republic of Yugoslavia expressing the Committee's appreciation to the Government for the cooperation and assistance extended to the good offices mission and proposing, inter alia, that a number of specific steps, particularly in the fields of education and health care, be taken with a view to normalizing the situation in Kosovo. The Committee also outlined possible conditions for bringing together in a future meeting in Serbia a group of representatives of the provincial, republican and federal authorities and representatives of ethnic Albanians from Kosovo with members of the good offices mission.

25. At its forty-fifth session, the Committee considered, in private meetings, the response received from the Minister for Foreign Affairs, which drew

attention to the decision adopted at the Fifteenth meeting of States parties to the Convention, on 17 January 1994, excluding the Federal Republic of Yugoslavia (Serbia and Montenegro) from participating in that meeting. As a result of the discussions, the Committee requested that its chairman communicate to the Minister for Foreign Affairs its wish that cooperation of the State party with the good offices mission be continued, as agreed upon by the Committee at its forty-fourth session. The Committee also reiterated its request, contained in the concluding observations adopted by the Committee at its forty-third session (see A/48/18, para. 547), that the State party provide it with further information on measures taken to implement the Convention.

Croatia

26. In its decision 1 (42), the Committee had expressed its grave concern over the ongoing ethnic conflict taking place in the territory of the former Yugoslavia and had requested the Government of Croatia, as well as other successor Governments, to submit by 31 July 1993 additional information on the implementation of the Convention in its territory. That information (see CERD/C/249 and HRI/CORE/1/Add.32) was considered by the Committee at its 1002nd meeting (forty-third session) on 12 August 1993 (see CERD/C/SR.1002). During the consideration of that information, the representative of the State party invited the Committee to send one of its members to Croatia in order to clarify its concerns to the Government and to assist it in adapting its legislation and policies to the requirements of the Convention (see A/48/18, para. 487).

27. In its concluding observations, the Committee noted the invitation extended to it by the representative and requested the State party to confirm by 1 October 1993 if it agreed that a mission be undertaken by the country rapporteur, Mr. Mario Yutzis, under the Advisory Services and Technical Assistance Programme of the Centre for Human Rights to assist the Government in reporting on the implementation of the Convention. Confirmation was subsequently received and the mission was undertaken from 21 to 25 March 1994.

28. During his mission, Mr. Yutzis met with numerous officials from various government ministries and the Supreme Court and discussed with them a wide range of issues under the Convention including: the drafting and implementation of legislation on ethnic and national minorities; the role of an independent electronic media in creating an atmosphere of tolerance and understanding; conditions at alien reception centres and policies concerning refugees; and the access of "foreign" persons to educational, health and other benefits.

29. At its 1062nd meeting (forty-fifth session), on 15 August 1994, the Committee considered the report of Mr. Yutzis on his mission. As a result of that consideration, the Committee requested its chairman to address a letter to the Minister for Foreign Affairs of the Republic of Croatia expressing the Committee's appreciation to the Government for the cooperation and assistance extended to Mr. Yutzis during his mission and reiterating the Committee's request that the State party provide further information, as set out in its concluding observations adopted at its forty-third session (see A/48/18, paras. 496-506). In his letter, the chairman indicated that the further information requested by the Committee should be submitted no later than 1 December 1994 so that it might be considered by the Committee at its forty-sixth session (27 February-17 March 1995). The Committee also expressed its readiness, should the Government so request, to send one of its members, within the framework of the Advisory Services and Technical Assistance Programme of the Centre for Human Rights, to assist the Government on any matter it deemed appropriate, with a view to implementing the provisions of the Convention.

Burundi

30. In view of reports of ethnic conflict in Burundi, the Committee decided at its forty-first session to request, in accordance with article 9, paragraph 1, of the Convention, further information from the Government of Burundi on that conflict and on its implications for the implementation of the Convention, in particular the provisions of article 5 (b). No written reply was received in response to that request. At its 1026th and 1027th meetings, on 9 March 1994, the Committee reviewed the implementation of the Convention in Burundi.

31. The representative of the State party indicated that the crisis which her country was currently undergoing was the most serious of the ethnic crises that had ravaged Burundi for more than 30 years; the latest crisis had claimed the life of the first democratically elected President of the Republic and had led to numerous massacres throughout the country. Between 30,000 and 50,000 people had been killed, 800,000 had taken refuge outside the country, mainly in Rwanda, and 300,000 had moved to other parts of Burundi. The representative of the State party said that she wished to provide all necessary clarifications on the ethnic problems and violations of human rights in Burundi, and was open to all questions. She emphasized that her country needed international assistance.

32. Members of the Committee thanked the representative of the State party for her frank account of the events that had occurred in her country and emphasized the seriousness of the crisis which Burundi was undergoing, a crisis that constituted a setback for the incipient move towards democracy and respect for human rights. The members then examined the conformity of domestic legislation with the provisions of the Convention. The Constitution adopted in 1992 and approved by 90 per cent of the population in a referendum provided for equal status and equal protection for all without discrimination, but often the exercise of the human rights embodied in the Constitution was subordinated to public requirements which restricted them. In addition, many constitutional provisions for the protection of human rights, such as those prohibiting unlawful detention, had no laws to give them effect. The Charter of National Unity, which took pride of place over all legislation, including the Constitution, should be accepted by all political organizations; it would be useful to have fuller details of the content of that Charter. Members also asked who, at the present time, was effectively wielding power in Burundi.

33. Members of the Committee noted that the new constitutional rules regarding political rights and the exercise thereof were in conformity with article 5 (c) of the Convention. On the other hand, they pointed out that there was a failure to comply with article 5 (b) of the Convention, since numerous summary executions and cases of torture had occurred in November 1991 and April 1992. Similarly, numerous cases of brutal repression by Tutsi against Hutu suspected of belonging to the Palipehutu party had been mentioned by non-governmental organizations and by the Human Rights Committee. Were efforts being made to reform the army, to conclude agreements with the Palipehutu party, as well as with neighbouring countries on the question of refugees, and to curb, if not halt, the arms traffic?

34. Concerning article 6 of the Convention, it was noted that there was no effective remedy in Burundi for victims of human rights violations.

35. With regard to article 7 of the Convention, it was asked whether measures had been taken to teach human rights to judicial, police and prison personnel.

36. Members inquired about the emergency measures which the Government intended to take to remedy the crisis situation, and drew its attention to articles 4, 2 (1) (e) and 5 (e) of the Convention, which required States parties to take positive measures in accordance with the aims of the Convention. They also asked the representative of Burundi to give her opinion concerning the establishment of a tribunal which would put an end to the impunity enjoyed by those responsible for massacres and coups d'état.

37. Replying to the questions and comments of members of the Committee, the representative of Burundi stated that, following the assassination of President Ndadaye and his close associates, it had been decided that the process initiated by the first free elections in the country's history should not be interrupted and, in February 1994, a new President belonging to the same political party as the assassinated President had entered office. The new President had taken as Prime Minister a member of an opposition party, and 40 per cent of the Government was composed of members of opposition parties; the ethnic problems that existed in Burundi could only be resolved through the establishment of a balance in the exercise of power between all the ethnic groups - Hutu, Tutsi and Twa - that lived in Burundi. In order to prevent a recurrence of coups d'état such as that of October 1993, international assistance was needed to train the armed forces and the police in the area of human rights. International assistance was also needed to enable the Government to combat the impunity now enjoyed for over 30 years by persons responsible for coups and massacres. The dialogue that had taken place between all parties in Burundi had led to the elaboration of the Charter of National Unity, but insufficient account had been taken of the role and importance of the army.

Concluding observations

38. At its 1039th meeting, on 17 March 1994, the Committee adopted the following concluding observations.

(a) Introduction

39. It is regretted that the Government of Burundi did not submit the further information which had been requested by the Committee. However, it is noted with satisfaction that a delegation was present to respond to the questions and comments of Committee members. Appreciation is expressed to that delegation for a most frank and useful dialogue.

(b) Principal subjects of concern

40. Shock is expressed over the outbreak, once again, of massive ethnically motivated violence in Burundi and the subsequent systematic human rights violations to which members of both the Hutu and Tutsi communities have been subjected. Concern is expressed that the recurrent violence constitutes a serious impediment to peace, stability and respect for human rights in the region.

41. Concern is expressed over the cyclical nature of large-scale ethnic violence in Burundi and it is noted with alarm that there is no effective prohibition of incitement to such violence either in the armed forces and the police or among the general public.

42. It is deeply regretted that the democratically elected Government of President Ndadaye was brutally attacked by military forces in the attempted coup d'état of 21 October 1993 and that the significant progress that had been made towards strengthening democratic institutions in Burundi has been jeopardized.

43. Concern is expressed, in particular, that major reform of the military remains to be undertaken with a view to bringing it under effective civilian control and to broaden its ethnic composition to reflect more adequately the composition of the population. Concern is also expressed that major reform needs to be undertaken with respect to the judiciary and the public service, which also do not reflect the ethnic composition of the population.

44. Deep concern is expressed that an atmosphere of impunity continues to prevail in Burundi. As in the past, the lack of effective investigation, prosecution and punishment of those guilty of human rights violations committed against both ethnic communities threatens to undermine efforts to strengthen the rule of law and build confidence in democratic institutions. Concern is expressed that the impunity of perpetrators of human rights violations is one of the factors contributing to the threat of renewed and unrestrained violence.

45. Concern is expressed over the inadequate response of the international community to assist Burundi in dealing with the serious and difficult problems confronting it.

(c) Suggestions and recommendations

46. The Committee strongly recommends that decisive steps be taken immediately at the international, regional (through the Organization of African Unity) and national levels, and through the Secretary-General of the United Nations, to break the vicious cycle of ethnic violence and atrocities that continues to erupt regularly in Burundi. To that end, the Committee supports the call of the Government of Burundi for international cooperation to assist it in its efforts to restore stability and to strengthen democratic institutions. In that connection, the Committee emphasizes the need to restructure the military, the police and the public service in order to bring them under effective civilian control. The Committee also emphasizes the urgent need to take steps to foster, at all levels of society, a dialogue of reconciliation which includes the military and other security forces.

47. The ethnic conflict in Burundi is paralleled by a conflict in Rwanda involving members of the same two groups. It is doubtful whether one State can resolve the conflict within its borders unless the conflict in the subregion is resolved.

48. The Committee recommends that major reform of the judiciary be undertaken and stresses that adequate legal safeguards must be put in place to ensure the security of members of all ethnic communities and their access to effective judicial recourse.

49. The Committee strongly urges the Government of Burundi to make a determined effort to bring an end to the impunity of the perpetrators of the ethnically motivated massacres and other racially based human rights violations that have ravaged the country. In this connection, the Committee emphasizes the need for the investigation, prosecution and punishment of perpetrators by the Government of Burundi in order to restore confidence in the rule of law and also as an indication of resolve that a recurrence of those crimes will not be tolerated. To that end, steps should be taken immediately at the international level to

lend more support and assistance to the Government of Burundi with a view to ending the violence, to help in finding a lasting solution to the ethnic tension and to create conditions to encourage the return of the refugees.

50. The Committee recommends that the Government of Burundi request technical assistance from the Centre for Human Rights in all aspects of strengthening democratic institutions and promoting respect for human rights, with the possible assistance of one or more members of the Committee. Such assistance would be useful particularly with respect to legislative and judicial reform, the training of law enforcement officials, the establishment of a national institution for the protection of human rights and the development of education programmes aimed at encouraging inter-ethnic tolerance and understanding.

(d) Further action

51. In accordance with article 9, paragraph 1, of the Convention, the Committee requests further information from the State party on measures taken to implement the provisions of the Convention in the light of the concluding observations adopted by the Committee at its forty-fourth session. The State party is requested to provide that information by 30 June 1994 so that it may be considered by the Committee at its forty-fifth session.

52. At its 1063rd meeting (forty-fifth session), held on 16 August 1994, the Committee gave further consideration to the situation in Burundi (see sect. B below).

Rwanda

53. In view of reports of ethnic conflict in Rwanda, the Committee decided at its forty-first session to request, in accordance with article 9, paragraph 1, of the Convention, further information from the Government of Rwanda on that conflict and on its implications for the implementation of the Convention in Rwanda, in particular the provisions of article 5 (b). No written reply was received in response to that request. At its 1027th meeting, on 9 March 1994, the Committee reviewed the implementation of the Convention in Rwanda.

54. The representative of the State party pointed out that since 5 January 1994 Rwanda had been facing a constitutional crisis, a result of the unwillingness of party leaders to share power as stipulated in the Arusha Peace Agreement of August 1993. The representative expected that his Government would consider seriously the report of the Committee, following its pattern of always cooperating with the United Nations. He also stated that efforts were being made to draft a report on the situation in Rwanda which would be submitted to the Committee as early as possible.

55. Members of the Committee discussed the origins of the ethnic conflicts taking place in Rwanda and noted that the attempts to form a power-sharing government had become deadlocked. Doubt had been cast by critics as to the good faith of the President for delaying the formation of the new government, and on the willingness of the President to accept State obligations as prescribed by international law. Members also noted that both politics and ethnicity carried significant weight in the conflict; the Rwandanese Patriotic Front, though seen as an ethnically based, Tutsi-led organization, had a Hutu president.

56. Members of the Committee wished to learn from the representative of Rwanda what follow-up had been given to the Arusha Peace Agreement; what actions had been taken with respect to the findings of the international commission of

inquiry into human rights violations, organized by a group of non-governmental organizations, which held the army, the administration, and the judiciary responsible for the deterioration of the situation; what steps had been taken by the Government to bring perpetrators of human rights violations to justice; what was the involvement of militias attached to political parties in human rights violations and were such activities restricted in any way; whether the "ethnic quota" system which allocated posts to members of ethnic groups was limiting access by Tutsis to posts in teaching and the public service; whether the ethnic based identity card system had been abolished, and whether the Twa minority were still being treated as second class citizens.

57. In his reply, the representative of the State party noted that the hope of peace that the Arusha Peace Agreement embodied had been dashed by the egoism of certain political leaders who were unable to agree on a compromise. The bickering of these leaders had led to delay in the establishment of the transitional institutions and thus to a political vacuum when the coalition government disbanded on 5 January 1994. However, he still believed that the Arusha agreement had provided answers to all the Committee's concerns, and could be implemented if the international community exerted pressure on the political leaders.

58. With reference to the findings of the non-governmental organization international commission of inquiry, the representative stated that the President and the Prime Minister had issued a declaration of intent to implement the commission's recommendations. The representative stated that the ethnic quota system had been disbanded in June 1991 with the advent of the multiparty system. He also stated that the Twa were being integrated through various programmes and were not treated as second class citizens. It had been decided to revoke the system of identity cards based on ethnicity, but owing to the political vacuum that decision had not been implemented. The groups described as militia were the youth branches of various parties.

59. In response to the representative's attribution of responsibility to the political leaders, the members of the Committee asked the representative to comment on the President's refusal to attend a joint working meeting to overcome the political impasse and on the possibility that the President was undermining the principle of the peace agreement by refusing to retreat from a posture that would inevitably lead to war.

60. The representative claimed that such accusations were unfair, for, unlike the other party leaders, the President had taken his oath under the new transitional government and had formally agreed to implement the Arusha Peace Agreement. The representative had no objection to the proposal to bring Rwanda together in a forum with other regional actors, but denied that Rwanda had any role in the recent coup d'état in Burundi or in the subsequent violence there.

Concluding observations

61. At its 1039th meeting, on 17 March 1994, the Committee adopted the following concluding observations.

(a) Introduction

62. It is regretted that the Government of Rwanda did not submit the further information which had been requested by the Committee. However, it is appreciated that a delegation was present to respond to the questions and comments of Committee members.

(b) Principal subjects of concern

63. Concern is expressed over the failure of the Government to identify and punish those responsible for the ethnically motivated murders that have taken place in Rwanda. The resulting impunity of the perpetrators has encouraged a continuation of serious human rights violations which, in turn, have undermined attempts to re-establish the rule of law.

64. While the signing, in August 1992, of the Protocol of Agreement on the Rule of Law is welcomed, concern is expressed over the delay in forming a power-sharing government and that many of the provisions have not yet been implemented, particularly articles 15 and 16 which call for the establishment of a national commission of inquiry responsible for monitoring human rights violations, and the creation of an international commission of inquiry to investigate human rights violations committed during the armed conflict.

65. Concern is also expressed over the state of the system of criminal justice, including the judiciary, which has not discharged its functions either independently or effectively. The poor conditions to which detainees are subjected will not make resolution of the conflict any easier.

(c) Suggestions and recommendations

66. The Committee strongly recommends that decisive steps be taken immediately at the international level, through the Secretary-General of the United Nations, and at the regional and national levels, to break the vicious cycle of ethnic violence and atrocities that continues in Rwanda. To that end, the Committee supports the full implementation of the Arusha Peace Agreement and the associated protocols, particularly concerning the rule of law.

67. The ethnic conflict in Rwanda is paralleled by a conflict in Burundi involving members of the same two groups. It is doubtful whether one State can resolve the conflict within its borders unless the conflict in the subregion is resolved.

68. The Committee recommends that major reform of the judiciary be undertaken and stresses that adequate legal safeguards must be put in place to ensure the security of members of all ethnic communities and their access to effective judicial recourse.

69. The Committee strongly urges that a determined effort be made to bring an end to the impunity of perpetrators of ethnically motivated massacres and other racially based human rights violations that have ravaged the country. In this connection, the Committee emphasizes that investigation, prosecution and punishment must be undertaken to restore confidence in the rule of law and also as an indication of resolve that a recurrence of those crimes will not be tolerated. To that end, steps should be taken immediately at the international level to investigate the crimes against humanity which have been committed in Rwanda and to collect systematically evidence which could eventually be submitted to an international tribunal with competence on this question.

70. The Committee recommends that the Government of Rwanda request technical assistance from the Centre for Human Rights in all aspects of strengthening democratic institutions and promoting respect for human rights, with the possible assistance of one or more members of the Committee. Such assistance would be useful particularly with respect to legislative and judicial reform, the training of law enforcement officials, the establishment of a national

institution for the protection of human rights and the development of education programmes aimed at encouraging inter-ethnic tolerance and understanding.

(d) Further action

71. In accordance with article 9, paragraph 1, of the Convention, the Committee requests further information from the State party on measures taken to implement the provisions of the Convention in the light of the concluding observations adopted by the Committee at its forty-fourth session. The State party is requested to provide that information by 30 June 1994 so that it may be considered by the Committee at its forty-fifth session.

72. At its 1045 meeting (forty-fifth session), on 3 August 1994, the Committee gave further consideration to the situation in Rwanda (see sect. B below).

Israel

73. The Committee considered the situation in Israel, on the basis of the urgent report requested from the Government of Israel under article 9, paragraph 1, of the Convention (CERD/C/45/Misc.1), at its 1057th and 1058th meetings, on 10 and 11 August 1994 (see CERD/C/SR.1057 and SR.1058).

74. Members of the Committee regretted the absence of a delegation to participate in the discussion. They took note of the exchanges of correspondence with the State party, but said that the documents received did not supply the information requested by the Committee. They emphasized that there was no doubt as to the competence of the Committee to request information on the implementation of the Convention in the occupied territories inasmuch as, by becoming a party to the Convention, Israel had undertaken to respect and ensure respect for the Convention in all territories under its jurisdiction and in regard to all persons living therein (art. 3). The Committee was also competent to consider criminal acts, whether or not isolated, committed by individuals, if they were racial in character (art. 2, para. 1 (d)).

75. Members of the Committee emphasized that the massacre of Palestinians praying at the Tomb of the Patriarchs in Hebron could not be described as an "isolated incident" by the authorities, for too many "isolated incidents" had occurred to use such a description. That act appeared to be an isolated act, but it had taken place in an overall context of violence by the Jewish settlers towards the Palestinians. In that regard, the Committee noted that the establishment of Jewish settlements in the occupied territories was illegal under international law (particularly art. 49 of the Fourth Geneva Convention) and constituted a threat to peace and security in the region.

76. Members of the Committee wished to know what measures had been taken to follow up the recommendations of the commission of inquiry appointed by the Israeli Government as a result of the Hebron massacre.

77. With reference to article 4 of the Convention, members welcomed the Government's decision to ban certain extremist groups and called upon it to ban all other such groups. They also requested the Government to supply full information on what Israel was doing, in both juridical and practical terms, to comply with article 4 of the Convention.

78. Members of the Committee emphasized that the problem of the security of all citizens should be viewed in the context of article 5 (b) of the Convention, whereby States parties undertook to protect individuals, groups or institutions

against any racial discrimination. Members wished to know what measures the Government had taken to implement article 5 of the Convention.

79. Members expressed the wish that the Government of Israel provide a report indicating what measures it had taken to combat discrimination against the Palestinians and ensure protection of the Palestinians in the occupied territories. The report should also indicate any changes in the settlement policy for the occupied territories (in particular whether new settlements were being established and whether settlers could still freely bear arms, even inside Muslim or "mixed" places of worship) and address the existence of two different legal systems in the occupied territories, which meant different treatment of Jewish settlers and Palestinians under criminal law, and also in regard to enforcement of the law.

80. Members also expressed the wish that the Government of Israel indicate in its report to the Committee what reparation had been granted to the victims of the Hebron massacre and their families, as required under article 6 of the Convention, and in general what procedures existed to redress harm suffered by all of the victims of human rights violations.

81. The Government should also provide the Committee with all available information on the measures taken, particularly in the occupied territories and the Jewish settlements, in the field of the education and training of professionals concerned with racial discrimination, culture and information to combat racial discrimination and promote understanding and tolerance between Jews and Palestinians, in conformity with article 7 of the Convention.

Concluding observations

82. At its 1067 meeting, on 18 August 1994, the Committee adopted the following concluding observations.

83. The Committee reaffirms its position of principle that, since Israel is a party to the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee is competent to examine the manner in which Israel is fulfilling its obligations under the Convention with respect to everyone falling under the jurisdiction of Israel including all persons living in the territories occupied by Israel.

84. The Committee also affirms its competence to request in appropriate cases, in particular in matters of urgent concern and in the context of its preventive approach, special information in accordance with article 9, paragraph 1 (b), of the Convention.

85. While the Committee acknowledges the information it has received from Israel through the Secretary-General, the Committee regrets that Israel has not submitted the urgent report the Committee requested in its decision 1 (44) of 7 March 1994.

86. The Committee reaffirms that all persons, without distinction as to race, or ethnic or national origin, are entitled to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution. Consequently, Israel is obliged to protect fully the life and security of the Palestinian civilians in the occupied territories.

87. The Committee regards the Israeli settlements in the occupied territories as not only illegal under international law but also as obstacles to peace and to the enjoyment of human rights by the whole population in the region, without distinction as to national or ethnic origin, in accordance with the Convention.

88. The Committee welcomes the outlawing by Israel, after the massacre in Hebron, of the extremist Jewish groups "Kach" and "Kahana Chai" as terrorist organizations and indications that Israel will take similar action against other terrorist groups and movements.

89. The Committee requests that just and adequate reparation be granted to the families of the fallen and injured victims of the Hebron massacre and of other similar violent actions.

90. The Committee fully endorses the peace process currently under way between Israel and the Palestine Liberation Organization and considers respect for the principles and obligations of the International Convention on the Elimination of All Forms of Racial Discrimination to be an essential ingredient of the peace process.

91. In the light of paragraph 85 above, the Committee requests the Government of Israel to expedite its seventh and eighth periodic reports, due on 2 February 1992 and 1994 respectively, and to include in them a response to these observations.

Papua New Guinea

92. In its concluding observations adopted at its forty-first session (A/47/18, paras. 265-266) and at its forty-third session (A/48/18, paras. 566-573) the Committee requested further information from the Government of Papua New Guinea on the situation in Bougainville, in accordance with article 9, paragraph 1, of the Convention. No information was received in response to those requests.

93. The Committee considered the implementation of the Convention in Papua New Guinea at its 1060th meeting, on 12 August 1994 (see CERD/C/SR.1060).

94. Members of the Committee focused on the situation in Bougainville, which was one of the State party's most resource-rich areas and had the world's largest copper mine.

95. Members of the Committee expressed concern over statements that numerous human rights violations, including summary executions and population transfers, had been committed. They also expressed deep concern about the large-scale mining operations in Bougainville.

96. Members emphasized that the situation of human rights in Papua New Guinea was not solely an internal matter and that the continued refusal to cooperate with and to report to the Committee constituted a violation of an international obligation.

97. Members noted that a national commission for human rights had been set up by the Government of the State party, which could be a useful contact for the Centre for Human Rights and for the Committee.

Concluding observations

98. At its 1067th meeting, on 18 August 1994, the Committee adopted the following concluding observations.

(a) Principal subjects of concern

99. The Committee regrets that the State party has not fulfilled its obligation under article 9, paragraph 1, of the Convention, to report regularly on the legislative, judicial, administrative and other measures which have been adopted to give effect to the provisions of the Convention. The Committee also deeply regrets that no information has been received pursuant to the requests made at its forty-first and forty-third sessions. The Committee reiterates that, in accordance with the Convention, the Government is under an international obligation to cooperate with the Committee.

100. The Committee is gravely concerned at reports of serious human rights violations, including summary executions and population transfers in Bougainville, where the population is ethnically distinct.

101. The Committee continues to be concerned about the possible resumption of large-scale mining operations in Bougainville without due regard to the rights of the population and the effects of environmental degradation.

(b) Suggestions and recommendations

102. The Committee strongly urges that the Government of Papua New Guinea resume its dialogue with the Committee and thus fulfil its obligation under the Convention. In that regard, the Committee reiterates its request for information about the implementation of the Convention in general and the situation prevailing in Bougainville in particular. The Committee suggests that the State party avail itself of the services of the Centre for Human Rights in the preparation of its reports.

103. The Committee suggests that the Government of Papua New Guinea cooperate with the Secretary-General of the United Nations and with the United Nations High Commissioner for Human Rights.

104. The Committee again requests that information concerning the human rights situation in the whole territory of Papua New Guinea that is available to the Secretary-General be shared with the Committee.

105. The Committee again expresses its willingness to accept any request which may be made by the Government of Papua New Guinea to provide technical assistance with a view to re-establishing a dialogue between the Government and the group controlling Bougainville or any part thereof.

Other action

106. At its 1064th meeting, on 16 August 1994, the Committee decided to request its Chairman to address a letter to the Minister for Foreign Affairs of Mexico concerning reports of ethnic conflict involving some indigenous populations in Mexico, particularly in the state of Chiapas, and to refer to the Committee's wish that the Government of Mexico include in its next report relevant information on measures taken in regard to recent developments in Chiapas. In that connection, the Committee noted that the ninth and tenth periodic reports of Mexico had been due on 22 March 1992 and 1994 respectively. At its

1069th meeting, on 19 August 1994, the Committee reconsidered its earlier decision and decided to defer consideration of the question until its forty-sixth session, in 1995.

B. Decisions adopted by the Committee

The human rights situation in Rwanda

107. Expressing its deep concern and grave alarm over the tragic loss of life of genocidal dimensions in Rwanda, the Committee adopted its decision 1 (45) on the human rights situation in Rwanda urging the rapid deployment of United Nations protection forces to Rwanda and expressing its readiness to cooperate, within the domain of its competence, in the coordinated effort of the United Nations and regional organizations for peace-building and state reconstruction so that gross and massive manifestations of racial discrimination and ethnic conflict would not recur. The Committee adopted the decision at its 1045th meeting, on 3 August 1994 (see annex III for the full text of the decision).

The situation in Burundi

108. Deeply concerned at the massive violations of human rights and acts of racial discrimination occurring in Burundi which may lead to further deterioration of the situation, with genocidal dimensions, and emphasizing the need for the investigation and prosecution of the perpetrators of recurring large-scale ethnic violence in the region, the Committee adopted its decision 2 (45) on the situation in Burundi recommending that the Secretary-General and competent United Nations organs, such as the Security Council, consider urgent measures in cooperation with the Organization of African Unity with a view to avoiding a new human tragedy in Burundi. The Committee also welcomed the establishment by the United Nations High Commissioner for Human Rights of an office of the Centre for Human Rights at Bujumbura, expressed its support for the technical assistance programme for Burundi and invited Governments of States parties to contribute substantially for its success, and expressed its readiness to cooperate with the High Commissioner for Human Rights in the fields of its competence concerning legislative, administrative and judicial reform and the training of government officials and magistrates. The Committee adopted the decision at its 1063rd meeting, on 16 August 1994 (see annex III for the full text of the decision).

Racist acts of terrorism

109. Expressing its grave concern at terrorist acts occurring in a number of countries around the world victimizing certain racial, ethnic or national groups, the Committee adopted its decision 3 (45) condemning, in particular, the barbarous terrorist attacks against a Jewish organization in Buenos Aires on 18 July and in London on 26 and 27 July 1994 that had resulted in about 100 deaths and numerous injuries. The Committee also condemned all forms of terrorism and stressed the necessity of strengthening international cooperation in order to adopt effective measures with a view to preventing and combating racist terrorist attacks against the international community. In the light of the above, the Committee invited the Governments of Argentina and the United Kingdom to expedite their periodic reports and provide pertinent information on measures they had taken in fulfilment of the Convention. The Committee adopted the decision at its 1064th meeting, on 16 August 1994 (see annex III for the full text of the decision).

C. General recommendation adopted by the Committee

Establishment of an international tribunal to prosecute the perpetrators of crimes against humanity

110. Alarmed at the increasing number of racially and ethnically motivated massacres and atrocities occurring in different regions of the world and convinced that the impunity of the perpetrators was a major factor contributing to the occurrence and recurrence of those crimes, the Committee adopted, at its 1039th meeting, on 17 March 1994, general recommendation XVIII (44) urging the establishment of an international tribunal with general jurisdiction to prosecute the perpetrators of crimes against humanity (see annex III for the full text of the general recommendation).

D. Working methods under the prevention procedures

111. At its 1028th and 1029th meetings, on 10 March 1994, the Committee considered possible amendments to its rules of procedure which would take into account the working paper it had adopted in 1993 on the prevention of racial discrimination, including early warning and urgent procedures. During the discussions which followed, the view was expressed that it was too early to make changes in the rules of procedure in order to take account of procedures adopted only very recently. There was a risk that the Committee might lock itself into rules which would soon no longer fit its needs. It would, therefore, be better for the Committee to have more experience of the procedures in question and to amend its rules at a later point on the basis of that experience. At its 1039th meeting, on 17 March 1994, the Committee decided to postpone to a later session further consideration of proposals to amend its rules of procedure.

III. CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

112. At its forty-fourth and forty-fifth sessions, the Committee considered 32 reports and additional information submitted by 14 States parties under article 9 of the Convention. The Committee devoted 41 of the 57 meetings held in 1994 to the discharge of its obligations under article 9 of the Convention.

113. In accordance with rule 64 of its rules of procedure, the Committee continued the practice, started at its sixth session, of requesting the Secretary-General to inform States parties concerned of the dates on which their respective reports would be considered by the Committee and inviting them to send representatives to participate in the examination of their respective reports.

114. The Committee continued to follow its practice of using country rapporteurs in the course of the examination of reports submitted by States parties (see annex VIII). This procedure had been decided upon at the thirty-sixth session, with a view to improving and streamlining the Committee's method of examining reports. The Committee considered that the system of country rapporteurs had enhanced the dialogue with representatives of States parties. The Committee noted with satisfaction that it had developed a fruitful dialogue with representatives of reporting States present at its meetings and urged that all States parties should endeavour to send representatives when their reports were being examined.

115. The following paragraphs, arranged on a country-by-country basis according to the sequence followed by the Committee in its consideration of the reports of States parties, contain summaries based on the records of the meetings at which the reports were considered. Further information is contained in the reports submitted by the States parties and in the summary records of the relevant meetings of the Committee.

France

116. The ninth, tenth and eleventh periodic reports of France, submitted in one document (CERD/C/225/Add.2), were considered by the Committee at its 1014th and 1015th meetings, on 1 March 1994 (see CERD/C/SR.1014-1015).

117. The report was introduced by the representative of the State party, who pointed out that there were 3.6 million foreigners residing in France, comprising 6.3 per cent of the total population, including the overseas territories and departments. Integrating the foreign population was one of the main priorities of the Government and a number of initiatives had been undertaken to address the problems experienced by the foreigners, particularly families, concerning employment, housing and education. To that end, a guide entitled Vivre en France (Living in France) had been produced and translated into Arabic and Turkish for distribution to newly-arrived families.

118. Of particular note to the Committee was the new Penal Code, which had just entered into force on 1 March 1994 and which contained a number of provisions aimed at preventing and punishing racist or discriminatory acts, including crimes against humanity. Two new infractions had been created, namely taking advantage of those in a vulnerable and dependent situation to exploit their

work, and subjecting someone to working or housing conditions incompatible with human dignity. These and other changes had been the focus of a recently published guide to the new anti-racist laws, which would be widely distributed.

119. Other steps had been taken to combat racism, notably the creation of anti-racism units at the departmental level. Those units, which were composed of representatives of the State, legal and other professional organizations and locally elected officials, focused particularly on education, housing and police/administration of justice matters, and made recommendations for action by the administration. The arrangement also provided for a dialogue between anti-racism organizations and government services, which permitted problems to be resolved more rapidly.

120. Members of the Committee expressed their satisfaction at the report submitted by the Government of France and thanked the representative of the State party for the updated and detailed information contained in his introduction.

121. Members of the Committee expressed concern over the preponderant number of young people among those convicted of racist acts, and the large number of young people in France who supported ultranationalist politicians who advocated racial and ethnic intolerance. With regard to overseas territories, they requested statistical information concerning the composition of the population of New Caledonia and the social and economic conditions in which Kanaks lived. They wanted to know what measures had been taken to protect and develop the indigenous language and culture in overseas territories and whether it was true that a large proportion of the land in the Polynesian islands now belonged to hotels or tourist businesses. They asked what steps the Government had taken to preserve the identity of indigenous people in French Polynesia.

122. In connection with article 1 of the Convention, the members of the Committee enquired about protection against discrimination in practice. They sought further information on changes in the nationality laws and, in particular, whether those changes were in conformity with the Convention. They wanted to know if practical results had been achieved regarding the implementation of Act No. 89-548 concerning the improvement of the conditions governing the residence of foreigners in France. In relation to the provisions of the new Penal Code concerning crimes against humanity, members of the Committee asked who the offenders might be, and what the main penalties imposed were.

123. In connection with article 2 of the Convention, members of the Committee asked whether, under the newly adopted legislation, it was possible for measures to be taken favouring certain vulnerable racial groups, as provided for under article 2, paragraph 2, of the Convention. They also wanted to know whether it was possible for children of foreign origin to learn their mother tongue and to keep their cultural identity or whether the policy was to integrate them into society as French citizens. They expressed concern lest the law on the computer storage of personal data restrict research into the incidence of ethnic inequalities. Members of the Committee asked for further information on the right of persons living in the overseas departments and territories to own property and to have access to education and health services. Concerning article 3, attention was drawn to social trends towards residential and educational segregation.

124. In connection with article 4 of the Convention, members of the Committee wanted to know whether the number of convictions on a principal charge of racism

had continued to increase in 1992 and 1993 and whether organizations found guilty of supporting racist acts or publishing racist propaganda had been declared illegal and disbanded in conformity with the Convention. They also wished to know what steps had been taken to prevent the occurrence of racist acts and violence such as those occurring in other countries in Europe. In that connection, they requested further information on the activities of the Unit to Combat Racism and Anti-Semitism, noting the number of manifestations of racism and xenophobia. They wanted to know what action had been taken to enforce the provision of the Act of 31 December 1987 prohibiting the offering, giving or selling to minors of publications of a racist or xenophobic nature. The members of the Committee wished to have information on the number of persons of Vietnamese or Cambodian origin and whether those persons had been the object of racist propaganda or attacks in France.

125. In connection with article 5 of the Convention, the Committee wanted to know what steps had been taken to ensure that preventive identity checks were not being carried out in a discriminatory manner by the police. Members asked what limitations were imposed in the use of regional languages and dialects, such as those found in Brittany and Alsace, and whether certain information relating to the family, such as birth and death notices, could be published in newspapers only in French.

126. With reference to article 6 of the Convention, members of the Committee wished to know the practical impact of the decision to extend the list of associations authorized to institute legal proceedings in cases of incitement to racial discrimination, hatred, violence, defamation or insult.

127. In connection with article 7 of the Convention, members of the Committee wished to know what steps had been taken to ensure adequate training of the police in matters concerning racial discrimination, in the light of the Committee's general recommendation XIII (42), and whether the frontier police and immigration officials did not discriminate against non-European foreigners seeking to enter the country.

128. Replying to questions and comments by members of the Committee, the representative of the State party said, concerning the new French Nationality Code, that the voluntary choice of nationality was conducive to integration; thus, young persons born in France of non-French parents and residing in France were able to exercise such a choice at any time between the ages of 16 and 21. The concept of jus soli was not called into question under the new law as French nationality was granted automatically at birth to the offspring of French parents, to those born in France of non-French parents also born in France, and to those born in France of parents born abroad when the parents did not transmit their own nationality. Beyond the age of 21, young people who had not opted for French nationality could acquire it through the regular process of naturalization. With regard to marriage, the new Code provided for a period of two years rather than the previously required six months before the non-French spouse could acquire French nationality. Each year, some 100,000 foreigners acquired French nationality. In relation to the question about Cambodian and Vietnamese persons, he said that the numbers of persons of Cambodian, Vietnamese, Lao and Chinese origin residing in France in 1990 had been 38,231, 29,855, 23,703 and 12,672 respectively; the figures for French-born nationals of those countries resident in France in the same year had been 9,138, 3,888, 8,100 and 1,065.

129. In answer to the questions on immigration, the representative of the State party said that the French authorities' objective was to control the influx of

foreigners and to combat clandestine entry into the country, France being wholly committed to the principle of free movement of persons and goods. The legislation providing for the measures taken to control the lawfulness of movement across the country's borders and to persuade non-citizens found guilty of entering France illegally to return had been submitted to the scrutiny of the Constitutional Council, which monitored its conformity with the relevant international instruments to which France is party. He emphasized the recent amendments to the legislation on identity checks, administrative detention, conditions in international transit zones in airports and seaports, family reunification, medical assistance and the granting of asylum, which had significantly strengthened the protection of foreigners. As to the questions and criticism concerning conditions of administrative detention, he said that current shortcomings had been officially acknowledged and were being remedied. He added that steps were also being taken to ensure that persons so detained could fully exercise their rights.

130. Referring to political asylum, he pointed out that the preamble to the Constitution of the French Republic singled out a particular set of circumstances which made the granting of asylum mandatory in the case of claimants arriving directly on French soil from their own countries or from countries which were not members of the European Union; France was party to the Convention relating to the Status of Refugees and had signed the Dublin Convention and the Schengen Agreement.

131. On the question of mixed marriages, foreign spouses of French citizens who met the conditions of entry into France were allowed to enter the country, but had to wait one year before their provisional permit was converted into a residence permit, which also served as a work permit. They could have worker status before receiving a residence permit if they provided evidence of employment in the form of a contract. Recent legislation sought to reduce concentration of particular groups in urban areas.

132. Access to the French health service was conditional on regularity of status. The medical assistance available to all persons in accordance with the provisions of the relevant European conventions was available to illegal immigrants.

133. In reply to the questions on the training of police officers, he said that even if the candidates passed the entry examinations, they must have clean records; police officers were liable to harsh penalties for service-related or personal misconduct and they had to carry a copy of the code of ethics.

134. Replying to a question concerning the authorization of political parties representing a specific religion or ethnic group, the representative of the State party said that as political parties constituted associations they were entitled to have objectives of an ethnic or religious nature. There were no such political parties in France.

135. As to the questions concerning penalties for racist offences, the representative said that for the offence of uttering racist insults, 9 sentences of imprisonment and 18 suspended sentences had been imposed in 1991, and 8 prison sentences and 13 suspended sentences in 1992; for the offence of incitement to racial hatred, 3 prison sentences and 7 suspended sentences had been imposed in 1991 and 2 prison sentences and 3 suspended sentences in 1992. In December 1992, the Court of Paris had sentenced two persons to six months' imprisonment for publishing a pamphlet advocating an "Aryan State" along Nazi lines. Deprivation of civil liberties could be imposed for a maximum period of

five years, and included a ban upon jury duty, upon holding a position in the public service and upon standing for election; such a penalty was often imposed in cases involving racist offences.

136. In reply to the question concerning the disbanding of racist groups, he said that any party or association advocating racial hatred or violence was liable to be disbanded; until now the procedure had been administrative, via presidential decree, but article 131 (39) of the new Penal Code made such an offence on the part of a legal person punishable by law.

137. There had been changes in the law governing identity checks: police officers were entitled to ask to check identity papers only in cases involving a threat to public order or danger to persons or property. Any identity check on a foreigner merely on the basis of his physical appearance would be considered invalid by the courts.

138. With regard to the more detailed information requested on crimes against humanity, the representative of the State party said that French law distinguished between crimes committed during the Second World War and crimes punishable as from 1 March 1994 under the new Penal Code, provided that they were committed by French citizens or against French citizens.

139. On the questions raised about the overseas territories and departments, the representative said that the overseas territories were not governed by laws applicable in metropolitan France and its overseas departments. The principles of the Constitution applied in the same manner in all the French territories. In the case of New Caledonia, the French Government, the territory itself and the provinces had their separate areas of jurisdiction. As far as land ownership was concerned, a system of property redistribution had been in operation in New Caledonia since 1988 and some 70,000 hectares had been redistributed over four years. In French Polynesia, land ownership was in the hands of the Polynesians.

Concluding observations

140. At its 1040th meeting, on 18 March 1994, the Committee adopted the following concluding observations.

(a) Introduction

141. The opportunity to continue the dialogue with the Government of France is welcomed, and the presence, during the consideration of the report, of a delegation composed of officials from various departments concerned with the protection of human rights is appreciated. Although the report lacked information on a number of issues, the information provided by the delegation in introducing the report and the comprehensive replies furnished to questions raised by the Committee members clarified several points not elaborated in the report. Unfortunately, many questions were not answered.

(b) Positive aspects

142. It is noted with satisfaction that measures have recently been adopted by the French authorities to prevent and intensify the fight against racial discrimination and xenophobia. In that connection, such measures as the establishment of departmental units to coordinate action to combat racism, the role accorded to non-governmental organizations in combating racism as provided for by law, the establishment of the new offence regarding crimes against

humanity under Act No. 90-615 of 30 July 1990, and the entry into force, on 1 March 1994, of the new Penal Code provision establishing the criminal responsibility of legal persons for the offence of discrimination are welcomed. Appreciation is also expressed for the recent publication of the 1992 report of the National Consultative Commission on Human Rights entitled "The struggle against racism and xenophobia". Those measures, as well as others listed in the report, indicate the seriousness with which the Government of France is addressing its obligations under the Convention.

(c) Principal subjects of concern

143. Serious concern is expressed at the manifestations of racism and xenophobia, which appear to be on the increase in France as well as in many countries in Europe and on other continents. A particular concern is the high proportion of young people who, according to official statistics, are involved in actions of racial violence. It appears that an active extremist minority propagating nationalist and racist ideologies is receiving increasing support, especially in those sectors of society most affected by unemployment.

144. Insufficient information was provided in the report about the new laws of immigration and asylum. Concern is expressed that the implementation of these laws could have racially discriminatory consequences, particularly in connection with the imposition of limitations on the right of appeal against expulsion orders and the preventive detention of foreigners at points of entry for excessively long periods. Concern is also expressed that these laws may generate or reinforce a xenophobic atmosphere in French society.

145. Concern is expressed over procedures concerning identity controls which confer on the police, for preventive reasons, broad discretion in checking the identity of foreigners in public, a measure which could encourage discrimination in practice. Concern is also expressed that the law enforcement services should reflect the ethnic diversity of the population and that adequate training with respect to racial discrimination should be organized.

146. More information is requested regarding the application of the Matignon Accords, taking into account the interests of the indigenous people of New Caledonia. Concern is expressed about possible serious limitations to economic, social and cultural development. More detailed information is also requested on the population of French Polynesia.

147. In view of the statement to the Committee in 1989 that the Government intended to ascertain the views of victims of racial discrimination and to reflect them in the next report, concern is expressed about the absence of this information from the present report.

148. Concern is expressed lest the law on computer technology, files and freedoms impair the Government's readiness to ascertain whether victims of racial discrimination lack effective protection and remedies.

149. Concern is expressed about social trends which result in segregation in areas of residence and in the school system.

150. Concern was expressed in 1983 about the adequacy of sentences imposed for racially motivated crimes; a new concern is added about whether the sentences for racially motivated homicide are consistent, regardless of the ethnic background of the victims.

(d) Suggestions and recommendations

151. The Committee recommends that France strengthen its laws to prohibit actions that are discriminatory in effect, on grounds of race, ethnic or national origin, in accordance with its general recommendation XIV (42), and in order to provide compensation to victims of such discrimination.

152. The Committee recommends that when France reviews its rules restricting certain occupations to French nationals, it ensures that none is discriminatory in effect.

153. The Committee recommends that the Government take further preventive measures to counter racist violence and to implement fully article 4 of the Convention, which obliges States parties to declare illegal and prohibit organizations which promote and incite racial discrimination.

154. The Committee recommends that, in accordance with general recommendation XIII (42), the training of law enforcement officials in human rights standards be strengthened and that their recruitment be broadened to include more members of differing ethnic backgrounds.

155. The Committee recommends that France introduce legislation to provide effective protection of the exercise, without discrimination, of the rights to work and to housing, in both the public and private sectors, and to provide compensation to victims of discrimination.

156. With respect to article 5 (e) (vi), the Committee requests the State party to report on whether languages other than French (including Breton, Basque and German) may be used in official settings and in mass media publications.

157. The Committee requests further information on judicial decisions relating to racial discrimination, penalties applied and payment of compensation.

158. The Committee, noting that the twelfth periodic report of France will be due on 27 August 1994, invites the Government to submit a brief report updating the eleventh periodic report and providing answers to the questions that were not answered at the forty-fourth session. It will expect the thirteenth report to be comprehensive and to be submitted by 27 August 1996.

159. The Committee draws the attention of the State party to the amendment to article 8, paragraph 6, of the Convention, which was approved by the fifteenth meeting of States parties and by the General Assembly in its resolution 47/111, and encourages the State party to expedite its action to accept formally that amendment.

Tunisia

160. The ninth, tenth, eleventh and twelfth periodic reports of Tunisia, submitted as a single document (CERD/C/226/Add.10), were considered by the Committee at its 1016th and 1017th meetings, on 2 March 1994 (see CERD/C/SR.1016 and SR.1017).

161. The report was introduced by the representative of the State party, who said that Tunisia had ratified most of the international human rights treaties. He reported on measures taken to strengthen protection against discrimination, such as the prohibition on defining nationality by racial or religious criteria, and the punishment under the Penal Code of incitement to racial hatred and

defamation on grounds of racial or religious origin. He said that all Tunisians had an equal right to health, social protection, work, housing and justice.

162. The Committee thanked the representative for the State party's report and for the oral presentation. Members of the Committee congratulated Tunisia on the list of human rights enunciated in the Constitution and the fact that the Constitution recognized the primacy of duly ratified international treaties over internal legislation. They also expressed satisfaction at the measures taken by Tunisia to include human rights education in schools and to teach young people tolerance and cultural pluralism. However, they pointed out that no country could pride itself on being free of the problem of racial discrimination, regardless of how homogeneous the population was. Members of the Committee wanted to know whether there were still nomadic populations in Tunisia and, if so, whether their culture was being preserved and to what extent they participated in public life. They also asked whether the National Covenant, adopted seven years before, had been accepted by all political parties, including the opposition parties, and what place the Covenant held in relation to the Tunisian Constitution, as well as what its authority was in the Tunisian legal system. Members of the Committee asked for information on the follow-up by the Tunisian authorities to the World Meeting of National Institutions for the Protection of Human Rights, which had been held in Tunisia.

163. With reference to article 2 of the Convention, members of the Committee asked what mechanisms had been set up to ensure the independence of the human rights consultative bodies established to advise the President of the Republic, such as the Higher Committee of Human Rights and Fundamental Freedoms, the Administrative Mediator, and the human rights offices in the Ministries of Justice, the Interior and Foreign Affairs. Had those bodies issued reports on their activities and, if so, what was the content? Had the Administrative Mediator and the offices in the various ministries instituted judicial proceedings? They also asked whether the human rights enunciated in the Constitution were directly applicable by a court or whether that was possible only under special laws. Similarly, they wanted to know whether the provisions of the Convention could be invoked directly in court.

164. With regard to article 4 of the Convention, the members of the Committee noted that only press offences were mentioned in the report and not all the other offences that should be punishable, inasmuch as the Convention required States to declare illegal and to prohibit organizations and propaganda activities which incited racial discrimination. They wanted to know about the reasons for the departure of many Jews abroad, as well as the general living conditions of Jews in Tunisia. Which were the ethnic groups forming the 1 per cent of the population that were not Sunni of Arab-Berber origin, and what were their rights? What were the number and the origin of aliens living in Tunisia and what were their rights compared with the rights of Tunisians? Had there been cases of breaches of the rules governing the establishment of associations or organizations, or membership in such associations or organizations? What was the situation of an immigrant worker who was about to complete his labour contract for a maximum period of two years? Could the contact be renewed? Members of the Committee also wanted to know whether the Tunisian Government had taken steps to protect Tunisian nationals who were victims of discrimination abroad (including the victims of expulsion from Libya in 1985). Members of the Committee asked about the criteria used by the Ministry of Justice to decide whether or not a person applying for naturalization was likely to become integrated into Tunisian society.

165. With reference to article 5 of the Convention, members of the Committee asked for clarification about the arrests and trials (as well as torture and deaths in prison) in 1991 and 1992 of members of the Ennahdha Islamist party. They also wanted to know what the practical effects were of the prohibition of polygamy and the introduction of divorce as the only possibility of dissolving marriage. They would like the members of the delegation to inform the Committee of the public rights and freedoms enjoyed and practised by immigrants and resident aliens.

166. With regard to article 6 of the Convention, the members of the Committee deplored the absence of examples and statistical data on complaints, legal proceedings and convictions for racist offence.

167. In response to the questions and comments by the members of the Committee, the representative of the State party said that 5,000 Tunisians were not Muslim, including approximately 3,000 who were Jews, the remainder being Christians. About 25,000 foreigners were working in Tunisia. The representative went on to emphasize that there were no problems of racial discrimination in Tunisia. In connection with the questions about the 1987 National Covenant, he explained that the Covenant was a text negotiated with, and signed by, all the country's political and social forces. The text was not binding in law, but it acted as a code that was a commitment for all the country's economic and social forces.

168. In connection with the questions on the Higher Committee of Human Rights and Fundamental Freedoms, the representative said that it was an independent body, one third of the membership consisting of representatives of ministerial departments and two thirds of independent individuals. It could receive complaints from private individuals or non-governmental organizations and could conduct inquiries and make proposals for improvements in law and in practice. It published an annual report on the human rights situation and, following the World Conference on Human Rights, it had encouraged the convening of the World Meeting of National Institutions for the Protection of Human Rights. The role of the Administrative Mediator was to receive individuals or non-governmental organizations concerning administrative problems involving appeals from government agencies or public officials; it was empowered to make proposals to the President of the Republic. As to the status of international treaties in national law, in civil proceedings treaties could be invoked by the party concerned, whereas in criminal proceedings it was for the prosecutor to refer to the relevant conventions, which were binding and took precedence over Tunisian law.

169. Concerning the Berbers in Tunisia, the representative of the State party said that they were particularly well integrated into Tunisian society and had no grievances; he also said that there were no nomadic tribes in Tunisia. In connection with the questions about the Jews in Tunisia, the representative said that their departure to France (most had a French passport) could be explained partly by the collectivization and socialization policy of the 1960s, a policy that had applied to all Tunisians and was not discriminatory but had induced many Jews engaged in commerce to leave, and partly by events in the Middle East from 1967 which had created tensions in the region, causing many Jews to leave. There had been no Government aim to secure the departure of Jews from Tunisia. Most immigrants in Tunisia were Moroccans or Algerians, together with some Europeans employed by foreign companies. Tunisia had ratified the ILO conventions concerning equality of treatment of nationals and non-nationals in employment and occupations and equal remuneration and social security.

Concluding observations

170. At its 1034th meeting, on 15 March 1994, the Committee adopted the following concluding observations.

(a) Introduction

171. Appreciation is expressed to the State party for the detailed information contained in its report and the supplementary information provided by the State party representative.

(b) Positive aspects

172. The democratic changes that have taken place in the State party during the reporting period are welcomed and satisfaction is expressed concerning the various measures taken to promulgate legislation and create mechanisms for the implementation of its international human rights treaty obligations. It is also noted with appreciation that various human rights institutions and non-governmental organizations have been established in the State party.

173. It is noted with satisfaction that the Constitution recognizes the principle of the primacy of international law and that the provisions of the Convention are directly applicable. The various measures taken in order to promote through education and teaching the principles of tolerance and respect for fundamental rights in conformity with article 7 of the Convention are also welcomed.

(c) Principal subjects of concern

174. It is noted, however, that the report did not provide concrete information on the implementation of the Convention in practice and did not therefore fully comply with the State party's obligations under article 9 of the Convention. Regret is expressed over the absence of concrete information and statistical data in the report on the effective functioning of the recently established human rights bodies and mechanisms. While appreciation is expressed for the detailed information contained in the report, more focused data on the actual application of the Convention is required.

175. Concern is expressed that specific legislative and other measures to prevent and prohibit racial discrimination have not been adopted by the State party. It is noted that domestic legislation lacks provisions to implement fully article 4 of the Convention, in particular, provision declaring punishable by law all acts of racist violence, the incitement to such acts and the provision of assistance to racist activities, as well as the prohibition of organizations, activities and propaganda which promote and incite racial discrimination. It is stressed that the existing provisions of the Penal Code do not fully comply with the requirements of that article.

176. Concern is also expressed that the provisions of Organic Law No. 92-25 could be interpreted and applied in contradiction to the requirements of article (d) 5 (ix) of the Convention concerning the right to freedom of peaceful assembly and association.

(d) Suggestions and recommendations

177. The Committee recommends that specific legislation be introduced to implement the provisions of article 4 of the Convention, taking into account general recommendation XV (42) of the Committee.

178. The Committee recommends that the next report of the State party should include information and statistical data about measures taken to implement the rights enshrined in the Convention and to guarantee effective remedies to possible victims of racial discrimination.

179. The Committee suggests that the State party consider making the declaration under article 14, paragraph 1, of the Convention.

180. The Committee draws the attention of the State party to the amendment to article 8, paragraph 6, of the Convention, which was approved by the fifteenth meeting of States parties and by the General Assembly in its resolution 47/111, and encourages the State party to expedite its action formally to accept that amendment.

Sweden

181. The eleventh periodic report of Sweden (CERD/C/239/Add.1) was considered by the Committee at its 1018th and 1019th meetings, on 3 March 1994 (see CERD/C/SR.1018 and 1019).

182. The report was introduced by the representative of the State party, who informed the Committee that a recent draft amendment to the Penal Code established harsher penalties for offences committed with the intent of insulting an individual or a group on grounds of race, skin colour, ethnic or national origin, religious belief or any other similar circumstance. Another bill submitted to Parliament proposing the prohibition of ethnic discrimination in the workplace would apply both to job seekers and to persons already in employment. It was also proposed that the Ethnic Discrimination Ombudsman should be able to take court action. The representative also announced the establishment of a special commission to combat xenophobia and racism.

183. The representative informed the members of the Committee that, in April 1993, the maximum period for suspension of a radio or television broadcasting permit, referred to in paragraph 28 of the report, had been increased from one year to five years. Updating the figures contained in paragraph 45 of the report, the representative informed the Committee that, in 1992, five persons had been convicted of agitating against an ethnic group, and two of illegal discrimination. The ban on trade with South Africa had been lifted, as well as the visa requirements for South African nationals. Lastly, the representative said that 36,500 residence permits had been granted to asylum seekers in 1993, including 30,300 to nationals from the former Yugoslavia.

184. Thanking the representative of Sweden for the supplementary information provided in the course of the oral introduction of the report, the Committee expressed its satisfaction at the State party's report and the regularity with which Sweden submitted reports to the Committee.

185. With reference to article 2 of the Convention, the members of the Committee welcomed the establishment of the Sami Assembly, but wondered to what extent the Assembly was independent and had genuine powers and what its activities had been in the course of its first year. They went on to ask why the choice of the

Chairman of the Sameting and the determination of the Assembly's functions fell within the purview of the Government of Sweden. They also asked for further information on the Government's follow-up to the proposals made by the commission established to study measures to combat ethnic discrimination, which had submitted its first report in 1991. Members of the Committee then asked whether the Government had taken steps to favour integrationist multiracial organizations and movements and other means of eliminating barriers between races. Members of the Committee also wanted to know whether measures, and, if so, what measures, had been taken to preserve the language, culture and identity of the ethnic groups living in Sweden, which accounted for 10 per cent of the Swedish population.

186. In relation to article 4 of the Convention, members of the Committee noted the will of Sweden not to prohibit by legislative measures organizations qualified as racist. However, such measures were compulsory for States parties which had not entered reservations to article 4 of the Convention. They emphasized that such measures were all the more desirable in Sweden in that the Convention was not incorporated in national law and, accordingly, could not be invoked in court. With regard to racist attacks, members of the Committee were surprised at the large number of cases which had not been cleared up by the police and how light some of the sentences were in such cases. They asked for further information on cases of racist attacks mentioned in the report.

187. In connection with article 5 of the Convention, members of the Committee asked for further details on the legal regime applicable to reindeer herding, the possibility of expropriating grazing land from the Sami and the rights of non-Sami to hunt on reindeer grazing land belonging to Sami populations and to fish in lakes reserved for the Sami. Was it intended that the Swedish Parliament should soon include Sami representatives as such and that the Sami language should be recognized as a national language on the same footing as Swedish? The members of the Committee asked for further information on the number, situation and degree of integration of minorities other than the Sami living in Sweden.

188. With reference to article 6 of the Convention, inasmuch as the Ethnic Discrimination Ombudsman still did not have the power to institute legal proceedings against racist acts, members of the Committee asked whether such proceedings could be initiated only by the victim or also by organizations or associations combating discrimination and racism. Had the Government taken the requisite steps to publicize widely the possibility of recourse to the Committee, since Sweden had made the declaration under article 14 of the Convention?

189. Concerning article 7 of the Convention, members of the Committee deplored the absence of information on the measures taken in the fields of education, teaching and training to combat racial discrimination and prejudice.

190. In his reply, the representative of Sweden said that the questions he was unable to answer verbally would be answered in writing in Sweden's next periodic report.

191. With reference to the questions concerning the prohibition of racist organizations, the representative said that Sweden's position was to strike a balance between measures to combat racism and the protection of fundamental freedoms, such as the freedom of expression, association and demonstration. In so doing, Sweden complied with its obligations by taking the appropriate measures, which, in its view, could be measures other than a prohibition on

associations and organizations; moreover, the latter were not under an obligation to be registered, which might pose a problem in identifying them if Sweden introduced a system to prohibit associations of a racist character. The representative went on to point out that, since the Second World War, many immigrants and refugees had chosen to live in Sweden and the number had increased still more since 1992, although Sweden was not spared the economic recession and unemployment hit everyone living in Sweden, Swedes as well as foreigners.

192. In connection with the Sami, the representative of the State party said that the Sameting had the same powers as those in Finland and in Norway and that its Chairman was chosen by the people and appointed by the Swedish Government; since it had been established in August 1993, it was too soon to appraise its activity, but that would be done in Sweden's next periodic report. The hunting and fishing rights of the Sami were rights based on immemorial custom, and the State could not intervene and hinder those rights. On State land and on reindeer grazing land, hunting and fishing rights had been extended to non-Sami when the rights of the Sami were not affected. The expropriation referred to in paragraph 63 of the report affected lands which were the private property of Sami, who, in such cases, were compensated. Sami children, like all children in Sweden, had to go to school, which was compulsory, and their parents could elect to send them to Sami or Swedish schools.

193. The representative of Sweden said human rights were taught in schools and formed part of police training programmes. At the present time, associations or organizations for protection against racial discrimination could not bring a case of discrimination against an individual or a group of individuals to court, but such a measure was under examination. Further details on the origin of ethnic groups and aliens living in Sweden would be given in the next periodic report. Sweden's policy was to favour the integration of foreigners; immigrants enjoyed the same opportunities and had the same rights and obligations as did Swedes. For that policy, Sweden had been awarded the Carl Bertelsmann Prize. To improve its policy towards foreigners still more, in January 1993 the Swedish Government had instructed a parliamentary commission to reform the policies applied to immigrants and refugees, particularly from the standpoint of employment and of a knowledge of Swedish, as factors favouring the integration of foreigners.

Concluding observations

194. At its 1034th meeting, on 15 March 1994, the Committee adopted the following concluding observations.

(a) Introduction

195. The State party is commended for its regularity in fulfilling its reporting obligations and appreciation is expressed for the opportunity to engage in a frank and constructive dialogue with representatives of the State party during which information was received on the most recent developments relating to the implementation of the Convention in Sweden.

(b) Positive aspects

196. It is noted that a special commission has been established with the task of combating xenophobia and racism, and the legislative measures proposed to strengthen the penalization of racist or other similarly motivated offences by amending the Penal Code are welcomed, as are the plans to endow the Ethnic

Discrimination Ombudsman with a litigating role and to counteract ethnic discrimination in the workplace. These initiatives are an indication of the importance the State party attaches to meeting its obligations under the Convention.

(c) Principal subjects of concern

197. Concern is expressed at the manifestations of xenophobia and racism occurring in Sweden in recent years. In this connection, it is underlined that persons holding or carrying out functions in the public or political spheres should not be permitted to contribute to expressions of racism and xenophobia.

198. Concern is also expressed about the inadequacy of measures taken by the Government to prevent occurrences of manifestations of xenophobia and racism and to protect effectively potential victims of such manifestations, particularly those from immigrant groups.

199. It is noted with concern that legislative measures prohibiting racist organizations, namely those disseminating ideas of racial superiority or racial hatred, have not been introduced by the State party.

200. Additionally, serious concern is expressed about recent legislative measures having a detrimental effect on Sami rights with respect to their traditional fishing, hunting and reindeer-raising activities and about the pace of progress towards the equality of members of ethnic minorities and their integration.

(d) Suggestions and recommendations

201. The Committee recommends that effective measures continue to be adopted and implemented to ensure that manifestations of racism and xenophobia are not permitted.

202. The Committee reaffirms that the provisions of article 4, paragraphs (a) and (b), of the Convention are of a mandatory character as stated in general recommendation VII (32) of the Committee. It notes that so far these provisions have not been fully implemented in Sweden; therefore, the Committee recommends that the State party should carry out each obligation under those mandatory provisions of the Convention. When doing so, the Government should also take into account general recommendation XV (42) of the Committee.

203. The Committee requests that the next periodic report include information on the implementation of any new legislative or administrative measures taken to combat racism and ethnic discrimination, and the methods employed to deal with racially motivated or similar crimes, including the principles or criteria followed in determining the initiation of prosecutions for incitement to racial hatred and the sentencing of persons convicted of racially motivated crimes and in preventing ethnic discrimination in the workplace.

204. The Committee would also appreciate receiving details of the findings of a survey of public opinion on racial discrimination matters conducted in 1993 by the Centre for Research in International Migration and Ethnic Relations of the University of Stockholm. It also wishes to have more information on the effects of local authorities' decisions on immigration matters and the work of the National Board of Immigration as regards its role in forestalling and preventing conflicts.

205. The Committee also requests information on the ways and means employed to measure the success of preventive policies on racial discrimination and on the actual situation of minority groups in Sweden, particularly as regards the implementation of the rights provided for in article 5 of the Convention.

206. The Committee would welcome any information that the State party is able to provide concerning the relative effectiveness of different measures in the fields of teaching, education, culture and information in combating prejudices which lead to racial discrimination.

207. Finally, the Committee requests the State party to provide additional information in its next report on the functioning and work of the Sami Assembly and on the implementation of the Expropriation Act.

208. The Committee draws the attention of the State party to the amendment to article 8, paragraph 6, of the Convention, which was approved by the 15th meeting of States parties and by the General Assembly in its resolution 47/111, and encourages the State party to expedite its action formally to accept that amendment.

Morocco

209. The ninth, tenth and eleventh reports of Morocco, submitted in one document (CERD/C/225/Add.1), were considered by the Committee at its 1020th and 1021st meetings, on 4 March 1994 (see CERD/C/SR.1020 and 1021).

210. The report was introduced by the representative of the State party who pointed out that his country had presented a core document (HRI/CORE/1/Add.23) comprising information concerning the territory and the population of Morocco and the legal framework and national organizations protecting human rights. He emphasized the recent ratification by Morocco of the Convention on the Elimination of All Forms of Discrimination against Women. Since the last dialogue between the Committee and Morocco in 1988, a number of decisions and measures reinforcing the protection of human rights had been taken.

211. Members of the Committee thanked the Moroccan delegation for its written report and core document and for its oral introduction. They noted with satisfaction that the report contained responses to questions raised during the examination of the eighth periodic report of Morocco, although it also contained many matters already dealt with in the previous report and a number of points needing further explanation.

212. It was noted that the Moroccan Constitution established the equality of all citizens before the law and the rights of foreigners in Morocco, that Morocco had recently set up an advisory council for human rights composed of representatives of all parties concerned, and that bilateral and multilateral conventions ratified in the manner prescribed by the Constitution were incorporated in domestic law and their provisions could be invoked before Moroccan courts.

213. With regard to article 2 of the Convention, members of the Committee wished to know what were the legislative rules ensuring the independence and impartiality of the judiciary. They emphasized the fact that the Moroccan nation was historically and constitutionally a single indivisible whole, but they wondered why censuses and studies carried out by the authorities employed only socio-economic and not racial, ethnic or linguistic criteria, which would give a more complete idea of the composition of the population.

214. With respect to article 4 of the Convention, members of the Committee expressed doubts as to the conformity with article 4 of the Convention of the claim that there was no need to adopt specific measures of a legislative, administrative or judicial nature to prohibit any act or encouragement of racial discrimination; they requested further information on the legislation and regulations existing to "put a stop to any racist movements that might emerge or to punish any act of racial discrimination". The Committee noted that the criminal law penalized the spreading of ideas of racial superiority or hatred, and provided penalties for those who showed any desire to assist, encourage or finance such activities, but it was not said if any case of this kind had occurred, and what the penalties imposed were. It was asked whether the statement made in paragraph 27 of the report meant that associations or political parties with ethnic objectives were forbidden. Further information was sought on the incidence of discrimination against Blacks (whether Moroccans or of other nationalities), Sahraouis and Berbers, and on the measures taken to prevent it. The Committee wanted to know what measures were taken to preserve the Berber culture and if persons of Berber and Sahraoui origin encountered difficulties in gaining access to education or employment.

215. With regard to article 5 of the Convention, it was noted that no practical information had been supplied on free and equal access of Moroccans and foreigners to the courts. The members of the Committee sought information on cases of discrimination before the courts, on allegations of the arbitrary arrest of Blacks and Sahraouis, and on special detention centres in which persons could be detained without trial. They also asked for information concerning the work of the commission established to review the Moudawana (Code of Personal Law) in the field of the advancement of the status of women, and concerning the new Labour Code. Members of the Committee asked whether the Sahraouis could travel without restraint, and why the Baha'is were refused passports to leave the country. They wished to know more about the functions of the advisory council for human rights created in 1990, and whether it had concluded that racist acts had occurred in Morocco.

216. With respect to article 6 of the Convention, members of the Committee asked for practical information relating to the remedies available in cases of discriminatory acts or practices. They wished to know whether those remedies and recourses were available to associations and organizations acting on behalf of victims of such acts.

217. Replying to the questions raised by members of the Committee, the representative of the State party stressed the primacy of international law in his country; the provisions of instruments such as the Convention could be invoked directly before Moroccan courts, which offered adequate protection against the offences referred to in article 4 of the Convention. He said that different cultures and societies had different expectations and definitions of terms and this should be taken into account when assessing human rights considerations in Morocco. He also claimed that Islam had always allowed freedom of worship for the "revealed" religions and that the whole concept of discrimination was alien to Islam. He recognized that the wording of paragraph 41 of the report was misleading in that it spoke of "restoring rights to women", when Moroccan women had never been deprived of any rights.

218. The mandate of the Advisory Council was to assist the King in all matters of relevance to human rights; it was composed of the Ministers for Foreign Affairs, of the Interior, of Justice and of Islamic Affairs, and representatives of all political parties, trade unions and non-governmental organizations dealing with human rights. The Council had set up three working groups dealing with police custody and custody pending trial, prison conditions and contacts with non-governmental organizations dealing with human rights. The Council had no specific mandate concerning racial discrimination and had as yet received no complaint under that heading.

219. With respect to the treatment of foreign residents, the representative said that Moroccan law offered them the same protection as Moroccans; the services of a court interpreter were made available if necessary. He added that Black Moroccans were integrated into Moroccan society and suffered no discrimination; the only form of hostility to which they might be exposed was the "day-to-day" antipathy that might be encountered anywhere among individuals. Concerning languages spoken in Morocco, the representative said that since the eighth century all Moroccans had shared the same language, Arabic, though other languages such as Berber and Spanish were spoken. In addition to Arabic, French was compulsory in school from a certain level. Schools were attended by students of Arab and Berber origin alike.

220. With respect to the information sought on special detention centres, the representative said that the Government of Morocco cooperated with

non-governmental organizations, which played a very useful part in denouncing human rights violations, but he strongly denied the allegations of disappearances of Sahraouis. In 1991, some 270 of those reported to have disappeared, who had in fact been held under house arrest, had been released. Baha'ism was regarded as a heresy and as a danger to Islam, although it might be practised in private. Baha'i propaganda was prohibited. Non-monotheistic religions might also be practised if this did not disturb public order.

221. The Committee thanked the representative for his informative remarks, but noted that article 4 of the Convention was not being implemented in the manner required.

Concluding observations

222. At its 1038th meeting, on 17 March 1994, the Committee adopted the following concluding observations.

(a) Introduction

223. It is noted with satisfaction that the report of the State party was prepared in accordance with the Committee's guidelines for the preparation of State party reports (CERD/C/70/Rev.3) and appreciation is expressed to the State party's delegation for the additional information that it provided to the Committee. It is also noted with satisfaction that Morocco has submitted a core document (HRI/CORE/1/Add.23) containing useful information of a general character and that the report under consideration contains replies of the Government to the comments made by the Committee on the eighth periodic report of Morocco, which was considered in 1988. It is regretted, however, that the ninth and tenth periodic reports were not submitted on time and that the combined report under consideration covers a period of almost six years. It is also noted that the report did not provide concrete information on the implementation of the Convention in practice and therefore did not fully comply with the State party's obligations under article 9 of the Convention.

(b) Positive aspects

224. The legislative and administrative measures adopted by the Government of Morocco with a view to enhancing the protection of human rights in general and eliminating racial discrimination in all its forms are welcomed. It is noted with satisfaction that all international human rights treaties ratified by Morocco, including the International Convention on the Elimination of All Forms of Racial Discrimination, have been incorporated into domestic law and that their provisions are directly applicable and may be invoked before Moroccan courts. It is also noted with satisfaction that the Advisory Council for Human Rights has recently been set up in order to advise on human rights-related issues.

(c) Principal subjects of concern

225. It is regretted that the report does not contain information on the demographic composition of the Moroccan population and attention is called in this regard to paragraph 8 of the guidelines.

226. Concern is expressed once again that the State party has not implemented the provisions contained in article 4 of the Convention, which call for the adoption of specific penal legislation. In that connection, it is recalled that

where the criminal law contains specific provisions covering racist acts, a State is better placed to deal with such phenomena.

227. It is regretted that insufficient information was provided on the implementation of articles 5 and 6 of the Convention, in particular information on the number of complaints of racial discrimination, the situation of the rural population, and information on the protection of the right, without discrimination, to freedom of thought, conscience and religion.

(d) Suggestions and recommendations

228. The Committee wishes the Government of Morocco to provide, in its next report, information on the ethnic composition of the Moroccan population, in the light of paragraph 8 of the guidelines.

229. The Committee strongly recommends that the State party comply fully with the obligations under article 4 of the Convention and that necessary legislative measures be taken in order to give effect to the provisions of that article.

230. The Committee draws the State party's attention to the periodicity of reporting established by the Convention and urges the State party to comply with it. The twelfth periodic report, due on 17 January 1994, could be of an updating character, containing responses to these questions and comments of the members of the Committee at the forty-fourth session.

231. The Committee draws the attention of the State party to the amendment to article 8, paragraph 6, of the Convention, which was approved by the fifteenth meeting of States parties and by the General Assembly in its resolution 47/111, and encourages the State party to expedite its action formally to accept that amendment.

Norway

232. The tenth and eleventh periodic reports of Norway, submitted in one document (CERD/C/210/Add.3), were considered by the Committee at its 1032nd and 1033rd meetings, held on 14 March 1994 (CERD/C/SR.1032 and 1033).

233. The report was introduced by the representative of the State party, who said that his Government attached great importance to the dialogue with the Committee. He noted that, contrary to the usual practice, the eleventh periodic report of Norway had not been drafted in consultation with non-governmental organizations, but those organizations would be informed of the Committee's conclusions.

234. With regard to action to combat racism, the representative indicated that his country had chosen to improve documentation and statistics, to strengthen legislative instruments and to adapt the education of the personnel concerned (police, teachers, journalists, health and social welfare workers).

235. The representative said that the general prohibition on organizations described in article 4 of the Convention was not necessary and would, moreover, give rise to problems in connection with freedom of speech and assembly. However, the members of such organizations could be liable to criminal proceedings (Penal Code, sects. 330, 135 (a) and 349 (a)), so that it would be possible to prosecute any person who established such an organization and any person who was a member of an association whose purpose was to commit or incite offences punishable by law. In that connection, the police had been criticized

for filing without investigation information transmitted to it in breach of sections 135 (a) and 349 (a) of the Penal Code; the Director General of Public Prosecutions had therefore requested prosecutors throughout the country to pay particular attention, in the exercise of their monitoring and advisory functions, to the way in which the police dealt with such cases. The prosecutors had also been invited to examine any information on violations of those sections during the period from 15 January to 15 April 1994 and to follow the relevant inquiries closely.

236. The representative said that the last sanctions in force against South Africa, except for the arms embargo, had been lifted in accordance with a decision taken on the basis of recommendations by the United Nations General Assembly.

237. The members of the Committee expressed their satisfaction with the reports of the State party, thanked the representative for his oral introduction and noted with satisfaction that Norway had made the declaration under article 14 of the Convention. They nevertheless stated that the information on the demographic composition of the country was inadequate. They commended the Government on the positive measures it had taken in favour of the Sami people and, in particular, on the efforts it had made to promote the use and study of the Sami language.

238. Referring to article 2 of the Convention, members of the Committee requested further information on multiracial organizations and movements encouraged by the Government, as well as on the multi-party platform of youth leaders referred to in the report (para. 42). They then asked about the status of the Convention in Norwegian domestic law and whether it could be invoked directly in the courts. The Norwegian delegation was asked how much free legal advice was given to foreigners. Members of the Committee wanted to have examples of exceptions provided by law to the principle of equality between Norwegians and foreigners (para. 36 of the report). They also asked how and to what extent the language and culture of foreigners living in Norway could be preserved.

239. In relation to article 4 of the Convention, members of the Committee stressed that, since Norway had not formulated any reservation to that article, it was bound to take the measures it provided for and to adopt instruments prohibiting all types of racist crimes and discrimination. Members of the Committee expressed concern about the apparent reluctance to bring prosecutions (see para. 254 below) and drew attention to the Committee's opinion on communication No. 4/1991, L.K. v. the Netherlands, of 1993. They asked what means would be available to the Broadcasting Committee to prohibit transmissions by a radio station with racist tendencies, such as Radio Nite Rocket, and, in general, what means would be used to prohibit or punish an organization that advocated racism, which would not, in the Committee's view, be a violation of freedom of expression. Information was requested on the number, composition and philosophy of racist organizations and organizations with racist propaganda activities in Norway. With regard to the entry of foreigners into Norway and the implementation of the Immigration Act, had particular ethnic groups been subject to the possibility of imprisonment in the event of a violation of that Act?

240. In connection with article 5 of the Convention, members of the Committee drew the attention of the delegation to the fact that the report did not contain socio-economic indicators, such as the unemployment and delinquency rates for the foreign population on the one hand, and the Norwegian population on the

other. Members of the Committee wished to know whether the members of ethnic minorities enjoyed equal treatment in the administration of criminal justice. They also asked whether the immigration services did their work without discrimination, since there had been incidents suggesting that that was not the case. Further information was requested on discrimination in the workplace in both the public and private sectors, and in respect of the right to housing, health care and access to public places and services; what remedies were available to a person who claimed to be a victim of discrimination in the exercise of one of those rights? Members of the Committee also requested information on Nazi parades in Norwegian streets, as reported in the press, as well as further details on the status of asylum seekers, including many children, who had been taken in by the churches but not by the competent authorities, as well as on the organization of refugee centres.

241. Referring to article 6 of the Convention, the members of the Committee regretted that the report and the oral introduction did not contain statistics and practical information on complaints, proceedings and convictions for racial discrimination. Could associations and non-governmental organizations defending the rights of foreigners and representing their interests bring legal action?

242. Replying to the Committee's questions and comments, the representative of the State party indicated that all the questions he would be unable to answer orally, especially those relating to the country's statistical data, would be dealt with in the next periodic report.

243. On the question of the status of the Convention in relation to domestic law, the representative indicated that neither the Constitution nor domestic legislation contained any general rule about the status of international treaties. Treaties were either incorporated in domestic law or, before ratification, a comparison was made between domestic law and the treaty in question to ensure that they were in conformity with one another. Since the Supreme Court had never had to rule on a conflict between the Constitution and a treaty, it had never had occasion to decide which took precedence. The representative also noted that human rights conventions, including the Convention on the Elimination of All Forms of Racial Discrimination, had been invoked many times before the courts, but he had no detailed information on such cases.

244. Referring to the question of child asylum seekers, the representative of the State party said that, when such children, accompanied or unaccompanied, obtained refugee status, they had the same rights as Norwegian children. They had access to education and were entitled to health care. Children whose request had been turned down and who had not left the country had no legal status; in principle, they were entitled only to emergency medical assistance, but it was to be noted that, in practice, they enjoyed more or less the same access to health care as other children. Most of the children who had sought refuge in churches had been given education and health care on the basis of decisions by local authorities. The majority of those children were from Kosovo; some of them had arrived directly from the former Yugoslavia and others had come from Sweden, where their applications for asylum had been rejected. In all cases, their applications for asylum had been rejected, but, following an agreement with the churches, the Government had undertaken to review those cases. When asylum was granted to one person, it was granted to his closest family members. The same principle applied in connection with family reunification: when a person had a settlement permit, a residence permit or work permit was granted to his spouse and children.

245. In reply to the question on the property rights of the Sami people, the representative of the State party indicated that, although the Government owned 96 per cent of the county of Finnmark, where most of the Sami lived, the local population enjoyed extensive rights, especially with regard to reindeer grazing. A study on the Sami right to land had been made by the Committee on Sami Rights and would be available in 1994.

246. In reply to the question on the possibility of imprisoning foreigners provided for in the Immigration Act, the representative stressed that there would not be any imprisonment if the court could impose less constraining measures, such as assignment to a particular place of residence or confiscation of passport. Imprisonment was intended primarily for aliens of unknown identity who did not cooperate with the authorities. Any person arrested under such conditions could be released provided that he agreed to leave Norway and withdrew the application for residence or asylum.

247. With regard to the prohibition of racist organizations and to freedom of expression and association, the representative indicated that the policy of the Norwegian Government was to prosecute and punish organizations and individuals for actions committed. However, prohibiting an organization or membership of an organization or making it a criminal offence could be contrary to other freedoms. Radio and television stations that broadcast racist propaganda were liable to punishment under section 135 (a) of the Penal Code and that could lead to the halting of their activity and the confiscation of their equipment, as well as the prosecution of the persons involved. At present, the possibility of allowing non-governmental organizations and associations to bring legal actions in cases of racial discrimination was being considered by the Ministry of Justice. Persons who were denied a public service on racial grounds could take legal action on the basis of section 349 (a) of the Penal Code.

248. Like the members of the Committee, the representative noted that there had been many complaints about the way the immigration authorities dealt with certain cases and said that consideration was being given to the possibility of having immigration personnel take special courses on racism.

Concluding observations

249. At its 1038th meeting, on 17 March 1994, the Committee adopted the following concluding observations.

(a) Introduction

250. Appreciation is expressed to the State party for its readiness to continue a dialogue with the Committee. It notes with satisfaction the submission by Norway of the core document (HRI/CORE/1/Add.6) containing useful information of a general character, and of a number of legislative acts adopted during the period under review. It is regretted, however, that the tenth and eleventh periodic reports were not submitted in due time and that neither previous reports nor the report under consideration contained replies of the Government to all comments made and questions raised by the Committee in the consideration of preceding reports.

(b) Positive aspects

251. The legislative measures adopted by the Government of Norway to bring the national legislation into closer conformity with the Convention and to enhance the protection of the human rights of Sami people and foreign nationals are welcomed. In that connection, note is taken of a new article 110 (a) inserted into the Constitution on 27 May 1988; of Act No. 78 of 21 December 1990 amending the Sami Act of 1987 and Act No. 24 of 1969; of Act No. 64 of 24 June 1988 concerning the entry of foreign nationals into the Kingdom of Norway; and of the revision of section 232 of the Penal Code to meet the requirements of article 4 (a). It is noted with satisfaction that Norway has ratified ILO Convention No. 169.

(c) Principal subjects of concern

252. Concern is expressed as to the status of the Convention in the domestic legal order of Norway and the lack of precise information about this in the report.

253. It is regretted that the report does not contain sufficient information on the demographic composition of the Norwegian population.

254. Concern is expressed once again that the State party has not implemented the provisions contained in article 4 (b) of the Convention and has not provided information on the practical implementation of provisions of article 4. In that connection, it is noted with concern that between 1982 and 1989 some 500 possible breaches of section 135 (a) of the Penal Code were reported to the authorities and that very few led to any proceedings. The situation has not improved since 1989. It is regretted that no information has been provided by the State party on the existing case law relevant to the Convention.

255. Concern is expressed that the exercise of discretion not to invoke criminal proceedings may result in an absence of effective remedies.

256. Further to reports about the use of local radio to disseminate ideas which may be in breach of article 4 (a) of the Convention, more detailed information is desired about the monitoring of transmissions and the implementation of procedures for receiving licences to broadcast.

257. Concern is expressed that the arrangements for compiling lists from which juries are selected may not guarantee to qualified persons of minority ethnic or national origin an equal chance that their names will appear on the lists.

258. Insufficient information was provided on measures to ensure that persons of minority ethnic and national origin receive equal protection against acts of violence, and on measures to counteract their reported belief that it is futile for them to report such attacks to the authorities.

259. Insufficient information was provided on the implementation of the provisions of article 5 of the Convention dealing with non-discrimination in respect of economic, social and cultural rights. Attention was drawn in 1977 to certain deficiencies in this field, which have still not been corrected.

(d) Suggestions and recommendations

260. The Committee requests the Government of Norway to provide information in its next report on the ethnic composition of the Norwegian population.

261. The Committee reaffirms that the provisions of article 4, paragraphs (a) and (b) are of a mandatory character as stated in general recommendation VII (32) of the Committee. It notes that so far these provisions have not been fully implemented in Norway; therefore, the Committee recommends that the State party should carry out each obligation under those mandatory provisions of the Convention. When doing so, the Government should also take into account general recommendation XV (42) of the Committee.

262. The Committee recommends that Norway both improve the training of public officials (including immigration officers) to avoid racial discrimination and improve methods of supervision to ensure that there are effective controls upon their conduct.

263. The Committee recommends that the State party review its measures for guaranteeing the human rights of asylum-seekers, in particular women and children, especially their economic and social rights, to see whether there is room for improvement.

264. The Committee recommends that the State party review its measures for guaranteeing the economic and social rights of naturalized immigrants and resident aliens of minority ethnic or national origin, with particular reference to the rights to work and to housing.

265. In view of the importance of measures in the fields of teaching, education and culture to combat prejudices that lead to racial discrimination, the Committee requests the State party to provide information to it on which measures it has found most effective, and which measures can reach those sections of the population most likely to engage in racist activities.

266. The Committee draws the attention of the State party to the dates on which forthcoming reports are due. It suggests that the combined twelfth and thirteenth reports be submitted early in June 1995 so that the Committee, at its forty-seventh session, may receive a considered response to the issues raised above.

267. The Committee draws the attention of the State party to the amendment to article 8, paragraph 6, of the Convention, which was approved by the fifteenth meeting of States parties and by the General Assembly in its resolution 47/111, and encourages the State party to expedite its action formally to accept that amendment.

Mauritius

268. At its 1028th meeting, on 10 March 1994 (see CERD/C/SR.1028), the Committee reviewed the implementation of the Convention by Mauritius based on its previous report (CERD/C/131/Add.8) and the consideration thereof by the Committee (see CERD/C/SR.782 and 792). The Committee noted that no new report had been received since 1984.

269. It was noted that, according to a 1990 estimate, the population of Mauritius was 1.12 million and was ethnically very complex. The majority of the inhabitants were Hindu, descended from the indentured field labourers transported from India after the emancipation of African, Malagasy and Creole slaves. The former bondsmen had gravitated towards towns and coastal villages, where 250,000 Creoles now lived. Muslims from South Asia numbered 150,000 and were mainly artisans and tradesmen. There was a Chinese middle class with fewer than 30,000 members and a European (Franco-Mauritian) plutocracy of 10,000.

270. Members of the Committee noted that the State party had not provided the additional information requested by the Committee at the examination of its previous report. At that time, the Committee had wished to know what measures had been taken to apply article 4 of the Convention; how unemployment had affected the standard of living of the various ethnic groups; what legal remedies were available to victims of racial discrimination; and whether access to primary, secondary and higher education was enjoyed equally by the various ethnic groups.

Concluding observations

271. At its 1037th meeting, on 15 March 1994, the Committee adopted the following concluding observations.

272. Regret is expressed that Mauritius has not submitted a report since 1984 and that it has not responded to the Committee's invitation to take part in its deliberations at the current session. It recalls that, in accordance with article 9 of the Convention, Mauritius is under the obligation to submit periodic reports on the measures that it has adopted with a view to giving effect to the provisions of the Convention. The State is therefore requested to comply fully with its reporting obligations under the Convention and to submit its periodic report without further delay. In this connection, the attention of the Government of Mauritius is drawn to the possibility, in case of difficulties encountered in the preparation of its report, of requesting technical assistance from the United Nations under the advisory services and technical assistance programme of the Centre for Human Rights.

273. It is noted that there have been no reports of human rights violations with a racial background in Mauritius and that the overall situation in the country does not provide grounds for serious concern. However, it is expected that the next report of the State party will contain more precise information concerning the ethnic composition of the population, measures taken to give effect to article 4 of the Convention and the availability of legal remedies for persons who believe themselves to be victims of violations of their rights as covered by the Convention. Information is also desired on how the educational system promotes tolerance among the racial and ethnic groups.

274. The Committee draws the attention of the State party to the amendment to article 8, paragraph 6, of the Convention, which was approved by the fifteenth meeting of States parties and by the General Assembly in its resolution 47/111, and encourages the State party to expedite its action formally to accept that amendment.

Mali

275. At its 1028th meeting, on 10 March 1994 (see CERD/C/SR.1028), the Committee reviewed the implementation of the Convention by Mali based on its previous report (CERD/C/130/Add.2) and the consideration thereof by the Committee (see CERD/C/SR.754). The Committee noted that no new report had been received since 1986.

276. Members of the Committee noted that the military Government, which had been in power for 23 years, had been overthrown in 1991. Since then, a multiparty political system had been established, democratic elections had been organized and a new Constitution had been adopted. The period under review had been marked by the conclusion of that process. There were thus signs of improvement in institutions, legislation and the general human rights situation.

277. Members of the Committee noted that in April 1991 a peace agreement had been concluded between the new Government and the organizations of Tuareg opposition groups. Acts of violence had nevertheless continued to take place between the Tuareg groups, which had not accepted the peace agreement, and the Malian army, and ethnic conflict had developed.

278. Members of the Committee also noted that the last two periodic reports of Mali had been incomplete, particularly with regard to the implementation of article 5 of the Convention. Members expressed concern over the situation of individuals belonging to the Tuareg community, noting that they were not represented in Parliament. In this connection, members wished to have detailed information on the extent to which Tuaregs participated in public life.

Concluding observations

279. At its 1037th meeting, on 15 March 1994, the Committee adopted the following concluding observations.

280. Regret is expressed that Mali has not submitted a report since 1986 and that it has not responded to the Committee's invitation to take part in its deliberations at the current session. The unwillingness of the Government of Mali to cooperate and to maintain a dialogue with the Committee makes it difficult for the latter to discharge its functions under the Convention effectively.

281. Recalling that the last report submitted by the Government of Mali in 1986 did not follow the Committee's guidelines for the preparation of reports, the State party is requested to comply fully with reporting obligations under article 9 of the Convention and to ensure that the report to be submitted to the Committee is prepared in accordance with guidelines and submitted without further delay. In that connection, it is suggested that the Government of Mali avail itself of technical assistance provided under the advisory services and technical assistance programme of the Centre for Human Rights.

282. It is recommended that the next report to be submitted include detailed information on measures taken to implement article 4 (b), measures which have been taken to protect the rights of Tuaregs under article 5 of the Convention and the difficulties encountered in implementing the provisions of the Convention.

283. The Committee draws the attention of the State party to the amendment to article 8, paragraph 6, of the Convention, which was approved by the fifteenth meeting of States parties and by the General Assembly in its resolution 47/111, and encourages the State party to expedite its action formally to accept that amendment.

Barbados

284. At its 1028th meeting, on 10 March 1994 (see CERD/C/SR.1028), the Committee reviewed the implementation of the Convention by Barbados based on its previous report (CERD/C/131/Add.13) and the consideration thereof by the Committee (see CERD/C/SR.890). The Committee noted that no new report had been received since 1985.

285. Members of the Committee noted that a reservation made by Barbados at the time of accession implied that the provisions of the Convention could not be invoked in the courts, which affected the implementation of articles 2, 4, 5

and 6 of the Convention. In view of that situation, the Government of Barbados should be requested to consider the possibility of withdrawing that reservation. Members also referred to the lack of legislative measures to improve the socio-economic mobility of Barbadians of African origin and the absence of legislation clearly prohibiting racist acts, as required under article 4 of the Convention. Members of the Committee wished to know what action had been taken to ensure equality in access to education; whether human rights issues had been integrated into school curricula; and what kind of appeals could be filed with the Privy Council as a result of a decision of the High Court.

Concluding observations

286. At its 1037th meeting, on 15 March 1994, the Committee adopted the following concluding observations.

287. It is regretted that Barbados has not submitted a report on the measures taken to give effect to the provisions of the Convention since 1988 and has not responded to the Committee's invitations to participate in a dialogue with it since 1986. The State party, therefore, is requested to comply fully with its reporting obligations under article 9 of the Convention and to submit its periodic reports without further delay. The wish is expressed that these reports be presented by representatives of the State party.

288. The wish is expressed that the next report of the State party should contain further information on the implementation of articles 2 and 4 of the Convention as regards the adoption of legislative and other measures to prevent racial discrimination and racially motivated acts.

289. The State party is requested to respond to the various comments made by members of the Committee during the examination of the seventh periodic report of the State party as regards the implementation of articles 5, 6 and 7 of the Convention. In this regard, information is sought on the measures taken to improve the economic and social position of different ethnic groups within the country, including those of African origin; the availability of remedies to victims of discrimination; and measures to strengthen human rights education and training.

290. It would be appreciated if the State party's next periodic report contained information as to whether it is considering withdrawing its reservation to the Convention.

291. The Committee draws the attention of the State party to the amendment to article 8, paragraph 6, of the Convention, which was approved by the fifteenth meeting of States parties and by the General Assembly in its resolution 47/111, and encourages the State party to expedite its action formally to accept that amendment.

United Arab Emirates

292. At its 1028th meeting, on 10 March 1994 (see CERD/C/SR.1028), the Committee reviewed the implementation of the Convention by the United Arab Emirates based on its previous report (CERD/C/130/Add.1) and the consideration thereof by the Committee (see CERD/C/SR.824). The Committee noted that no new report had been received since 1986.

293. Members of the Committee requested specific information on the composition of the population, particularly the number of citizens, foreigners and

immigrants. Reference was made to the lack of information on the scope of the rights of foreign workers, the right of access to education for the children of foreign workers and the rights of workers to form trade unions. Members of the Committee wished to know whether freedom of conscience and opinion was effectively protected for all; how human rights were protected in practice, in view of the jurisdictional duality that existed between the Shariah and the civil courts; and what steps had been taken to implement fully article 4 of the Convention.

Concluding observations

294. At its 1037th meeting, on 15 March 1994, the Committee adopted the following concluding observations.

295. It is deeply regretted that the United Arab Emirates has not responded to the Committee's invitations to submit a report since 1986 and to take part in its deliberations. It is recalled that, in accordance with article 9 of the Convention, the United Arab Emirates is under the obligation to submit periodic reports on the measures it has taken to implement the provisions of the Convention. The State party is therefore requested to comply with its reporting obligations under the Convention and to submit its core document and periodic report without further delay. In this connection, the attention of the Government of the United Arab Emirates is drawn to the guidelines for the preparation of State party core documents (HRI/GEN/1) and the preparation of periodic reports under the Convention (CERD/C/70/Rev.3) and to the possibility of requesting technical assistance from the Centre for Human Rights for the preparation of such reports.

296. Finally, the Committee recommends that the next report submitted by the State party contain responses to the various comments made by the members of the Committee both in 1986 and at the present session, including more precise information on the actual situation in the State party as regards the implementation of the Convention for all sectors of the population; the measures taken to give effect to the provisions of article 4 of the Convention; the situation of foreign workers, including domestics; the protection of the freedoms of religious expression and of assembly; the effect of the Gulf war on the exercise of fundamental rights and freedoms; the reform of the Penal Code; and the respective competencies of non-religious courts and religious courts regarding cases of racial discrimination.

297. The Committee draws the attention of the State party to the amendment to article 8, paragraph 6, of the Convention, which was approved by the fifteenth meeting of States parties and by the General Assembly in its resolution 47/111, and encourages the State party to expedite its action formally to accept that amendment.

Canada

298. The Committee considered the eleventh and twelfth periodic reports of Canada (CERD/C/210/Add.2 and CERD/C/240/Add.1) at its 1043rd and 1044th meetings, held on 2 August 1994 (see CERD/C/SR.1043 and 1044).

299. The report was introduced by the representative of the State party who stated that responsibility for implementing the Convention in Canada was shared between the federal, provincial and territorial governments.

300. He referred to initiatives that had been taken in the enforcement and administration of laws to deal with the problem of racial discrimination, especially after incidents in recent years between the police and members of visible minorities. Institutions responsible for the administration of justice had also responded to increasing concern about crimes aimed at specific ethnic or racial groups and the Canadian Judicial Council supported comprehensive education for the judiciary on a variety of social issues, including race matters.

301. Reference was also made by the representative of Canada to his Government's initiatives in the processes for negotiating land claims and for developing governmental arrangements with aboriginal groups. He stated, in particular, that the Statement of Political Commitments of the federal Government concerning the Mushuau Innu community in Davis Inlet had been accepted by the Band Council in April 1994 and that the Royal Commission on Aboriginal Peoples had recently completed an extensive research and public consultation process, involving visits to communities across Canada.

302. Members of the Committee welcomed the legal and other measures that Canada had taken at both the federal and the provincial level to combat racial discrimination. However, considerable efforts had still to be made to improve the situation of immigrants, especially those coming from Africa and Asia, minorities, and aboriginal people.

303. Members expressed appreciation for the detailed information provided but noted that the reports did not address certain important issues, such as the practical implementation of the Canadian Charter of Rights and Freedoms; the developments concerning the initiatives taken by the Canadian Human Rights Commission to have the Charter amended to give human rights provisions precedence over other laws; the steps taken to solve the conflicts between Mohawk communities and Canadian authorities over land in the municipality of Oka; the constitutional reforms, especially with regard to the question of the definition of aboriginal people; the results of the census of June 1991; and the health conditions of the aboriginal people.

304. Members of the Committee wished, in particular, to receive clarification on the responsibilities for the areas covered by the Convention exercised by the federal Government and by the provincial and territorial governments of Canada. It was noted that human rights issues were mainly dealt with by the provincial governments. Members asked whether the Government of Canada would consider amending the Constitution to ensure that all fundamental human rights issues were subject to federal rather than provincial law so as to harmonize all the existing provisions and avoid inconsistencies. In addition, reference was made to a letter addressed to Committee members by the Canadian Council of Churches containing several remarks on the implementation of the Convention in Canada, as well as the suggestion that the Canadian Human Rights Commission could serve as a national authority under article 14 of the Convention. In this connection, attention was drawn to general recommendation XVII (42) on the establishment of national institutions to facilitate the implementation of the Convention and it was asked whether Canada would consider making the declaration to recognize the competence of the Committee to deal with individual communications provided for in article 14 of the Convention.

305. With reference to article 1 of the Convention, members of the Committee wished to know which specific laws and rules regulated immigration, whether immigration was a matter for the provincial rather than the federal authorities and whether immigrants had the opportunity to maintain their cultural identity.

They also wished to receive a clear explanation of the meaning in Canadian society of the expressions "identifiable groups" and "visible minorities".

306. With regard to article 2 of the Convention, members of the Committee referred to information received from non-governmental sources according to which immigrants from Africa and Asia were less well treated in Canada than immigrants from Europe and in some cases were subject to systematic discrimination. They asked, in this connection, what the basic educational requirements were for recruitment into the police force, whether the Government of Canada was seeking to intensify human rights training programmes for law enforcement officials in accordance with general recommendation XIII (42) and how the Canadian legislation dealt with asylum seekers and economic migrants. Members of the Committee also referred to the amendments to the Indian Act adopted in 1985 to remove discriminatory provisions and asked several questions on the practical consequences of those amendments, especially in the light of the fact that the Canadian Commission on Human Rights in 1990 had described the amendments as paternalistic relics of the past, incompatible with Canada's domestic and international obligations. Furthermore, they wished to receive more detailed information concerning the development of the negotiations between the Canadian authorities and the aboriginals with regard to comprehensive land settlement and self-government agreements in various provinces. It appeared that such negotiations were proceeding at an extremely slow pace and that few new agreements had been concluded. More information was also requested about the community-based aboriginal justice programmes and the Federal-Provincial-Territorial Working Group on Multiculturalism and Race Relations in the Justice System; social indicators concerning aboriginal people, in particular, the rates of infant mortality, alcoholism, drug abuse, delinquency, imprisonment and suicide; the Police-Minority Youth Summer Employment project; the action taken by the federal Government to solve the problems of the Indians at Oka and the Mohawk communities of Kanesatake and Kahnawake after the incidents of the summer of 1990; the work done by the Royal Commission on Aboriginal People, and the steps taken by the Law Reform Commission to ensure equal access of aboriginal persons to justice.

307. With reference to article 4 of the Convention, members of the Committee wished to receive information about the scope of a decision taken by the Supreme Court in 1992 concerning section 181 of the Canadian Criminal Code. That provision, which made it a criminal offence to publish a false statement likely to cause injury to the public interest, was ruled to be inconsistent with the guarantee of freedom of expression in section 2 (b) of the Canadian Charter of Rights and Freedoms. Members also asked whether there were differences in the scope of activities of human rights bodies in the different provinces and whether their activities were consistent with article 4 of the Convention. More information was requested concerning the influence among young people of the so-called "hate groups".

308. Concerning article 5 of the Convention, members of the Committee regretted that the reports lacked information in particular on the implementation of the right to health, especially with regard to aboriginal people, and asked for information about the national native alcohol and drug abuse programme and on how the aboriginal people perceived the programme. Members of the Committee drew particular attention to the Employment Equity Act and regretted that it was only applicable to limited categories of workers. They asked why the Canadian Human Rights Commission had no direct responsibility for enforcement of the Employment Equity Act, whether there was any mechanism to implement that Act, and why aboriginal people were not fully represented in the workforce, especially in higher levels of employment. More information was also requested

about employment, education and religious freedom, particularly in respect of small minority groups, the actual achievements of the Employment Equity Working Group for Aboriginal Employees, and the extent to which aboriginal people and immigrants enjoyed effective access to the justice system.

309. With regard to article 6 of the Convention, members of the Committee stated that, according to the information received, it was doubtful whether the provincial judicial systems in Canada fully met the requirements of that article. They also asked for information on the joint federal/provincial initiative under way to create a Canadian police race relations centre, as well as on the functions, composition and rulings of the human rights tribunal established under the Canadian Human Rights Act. In addition, information was requested about the number of complaints of racial discrimination, the action taken in that regard and the effectiveness in practice of the remedies available.

310. In connection with article 7 of the Convention, members of the Committee generally welcomed the various measures taken in Canada to combat racial prejudice and promote multiculturalism. They wished to know, in particular, what the impact was of the new Broadcasting Act, whether all languages spoken in Canada were used in radio and television broadcasting, to what extent aboriginal languages or dialects were used, and whether it was possible for aboriginal groups to establish regional broadcasting operations. More information was also requested about the achievements in practice of federal multiculturalism programmes.

311. In their reply, the representatives of Canada said that the structure of their Government's report was imposed by constitutional principles of cooperation between the federal authorities and the provinces and territories, but account would be taken of any suggestion on presentation that was compatible with constitutional requirements.

312. They also said that, under the Constitution, responsibilities were clearly divided between the federal Government and the provinces and shared only in a few specific areas. Only the federal authorities were empowered to sign international treaties, but they could not oblige the provinces to amend their legislation to give effect to the provisions of those treaties because matters within their exclusive jurisdiction were involved, as in the case of many human rights texts. Machinery for permanent consultation with the provinces and territories on the signature and implementation of international instruments nevertheless existed.

313. The Canadian Charter of Rights and Freedoms, which guaranteed a great many fundamental rights and freedoms and prohibited any form of discrimination, had been incorporated in the Constitution of Canada since 1982 and was part of the supreme law of the country. The federal Government and all of the provincial governments were bound by the Charter. With regard to the 1977 Canadian Human Rights Act, the representatives of Canada explained that jurisdiction in respect of human rights was divided between the federal Government and the provincial governments, which enacted laws and codes dealing primarily with discrimination. The implementation of the codes was usually ensured by bodies independent of the Government. In the event of failure to implement them, a complaint could be brought before a court. A provision was under consideration to give the Canadian Human Rights Act precedence over any other act.

314. With regard to article 1 of the Convention, the representatives of Canada provided explanations of the terms "visible minority" and "identifiable group". They stressed that "visible minority" was in no case a legal term.

315. Referring to the questions asked in connection with article 2 of the Convention, the representatives of the State party provided detailed information on developments in the negotiations between the Canadian Government and aboriginal groups on the land claimed by the latter, on the measures taken by the Government at the national and international levels following the events at Oka and on the measures it had taken for the benefit of the Innu community in Davis Inlet so that it might enjoy decent living conditions. They stressed that, although the amendments to the Indian Act (Bill C-31) had been criticized, they were intended to bring the Act into line with the Canadian Charter of Rights and Freedoms. Since their adoption, over 94,000 persons had gained Indian status and were benefiting from health, housing and higher education programmes reserved for aboriginals. The representatives of Canada also referred to some provisions on respect for aboriginal culture which were contained in the "policy on the maintenance of law and order in the First Nations".

316. With regard to the questions raised under article 4 of the Convention, the representatives of the State party outlined the arguments which had led the Supreme Court to define the scope of legislation prohibiting incitement to hatred in order not to infringe freedom of expression. They nevertheless stressed that incitement to hatred was still punishable under article 319 of the Criminal Code and they described the special procedures developed by the police to investigate activities motivated by hatred.

317. Referring to article 5 of the Convention, the representatives of Canada said that statistics on employment equity showed that there had been regular progress in the representation of "visible minorities" and aboriginal people, and noted that other information on the effectiveness of the implementation of the Employment Equity Act would be given in the next report.

318. Concerning article 6 of the Convention, the representatives of the State party provided information on the status of the initiative for aboriginal justice which was being financed by the Government and had included over 60 projects as at 1 March 1994.

319. In respect of article 7 of the Convention, the representatives of Canada provided information on the Canadian Race Relations Foundation, which was being set up and should assist researchers and institutions working in areas such as the law, the media and education. Information was also provided on the functions of the Ministry of Multiculturalism and Citizenship, which had recently become the Ministry of the Canadian Heritage.

Concluding observations

320. At its 1065th meeting, held on 17 August 1994, the Committee adopted the following concluding observations.

(a) Introduction

321. The delegation which presented the reports of Canada is commended for its constructive dialogue with the Committee and the useful additional information and explanations it provided orally in response to the questions and comments of Committee members. It is recommended that that information be included in the

next periodic report. Appreciation is also expressed to the State party for its regularity in fulfilling its reporting obligations. However, it is noted that the reports are not prepared in conformity with the Committee's general guidelines for the submission of reports. As a result it is difficult for the Committee to assess how the Convention is implemented in Canada in general.

(b) Positive aspects

322. Satisfaction is expressed at the measures taken in Canada to improve the situation of aboriginal peoples. Particular reference is made in this respect to the recent land claim settlements in the eastern and central Arctic, the Gwich'n and Sahtu Dene Metis settlements in the Mackenzie Valley and in the Yukon Territory. Measures taken to eliminate racial discrimination and to promote multiculturalism in Canadian society are also welcomed. Reference is made in this respect to section 15 of the Charter of Rights and Freedoms and the Canadian Multiculturalism Act of 1988. It is noted with satisfaction that each Canadian province has adopted legal measures to combat discrimination and that particular efforts have been made to promote multicultural education, especially in Newfoundland and Labrador where the Department of Education formally adopted in 1992 a multicultural education policy for introduction in the school system. The educational measures taken to combat prejudice and racial discrimination in Canada are considered to provide models that could be followed by other States parties in respect of the implementation of article 7 of the Convention.

(c) Principal subjects of concern

323. Concern is expressed at the statement that the federal Government cannot compel the provincial and territorial governments to align their laws with the requirements of the Convention. It does not accept that the responsibility for the areas covered by the Convention is shared by the federal, provincial and territorial governments.

324. Concern is also expressed about references to "visible minorities" in regard to Canadian anti-discrimination policy, since this term does not fully cover the scope of article 1 of the Convention.

325. Concern is further expressed about the following issues: the slowness at which negotiations have been undertaken further to define aboriginal rights to land and resources in many parts of the country; the limited scope of the Employment Equity Act of 1986, which covers only 10 per cent of workers in Canada and does not fully guarantee equal employment opportunities for aboriginal peoples or their representation in high-level employment; the treatment of immigrants from the Asian and African regions, who, according to various non-governmental sources, appear not to be adequately protected against discrimination; and the existence of racist organizations.

326. In addition, it is noted with concern that, in spite of various positive measures taken by the Canadian authorities on both the provincial and federal levels to ensure adequate development and protection of aboriginal people, certain social indicators concerning, especially, alcoholism, drug abuse, suicide and the incarceration rate show that aboriginal people may be more affected by social problems than other social groups in the country.

(d) Suggestions and recommendations

327. The Committee recommends that the next periodic report of Canada be drafted in accordance with the Committee's general guidelines and provide information on measures taken by the federal, provincial or territorial governments in separate sections following the sequence of the articles of the Convention. The report should contain replies to the unanswered questions and include more precise information on the relation between federal and provincial legal measures taken to implement the Convention.

328. The Committee recommends that legal provisions at both the federal and provincial levels concerning human rights be harmonized to avoid any possible difference in treatment; that equality in access to and treatment by courts be fully guaranteed; that the Employment Equity Act be extended to wider categories of workers, including federal civil servants, to improve the effectiveness of remedies in this field; and that general recommendation XVII (42) on the establishment of national institutions to facilitate the implementation of the Convention be brought to the attention of the Canadian Human Rights Commission.

329. The Canadian authorities should strengthen their efforts to implement their existing national programmes and measures with a view to implementing fully articles 2, 4, 5 and 6 of the Convention. In particular, measures should be undertaken to ban racist organizations, to improve the employment and health situation of aboriginal people, to speed up negotiations on aboriginal land claims, to enforce remedies existing under the law, and to protect immigrants, especially those of African and Asian origin, against discrimination.

330. Noting that Canada has accepted the individual complaint procedures established under some of the international instruments in the field of human rights, the Committee recommends that the Canadian Government consider making the declaration necessary to accept the communication procedure established under article 14 of the Convention.

331. The Committee draws the attention of the State party to the amendment to article 8, paragraph 6, of the Convention, which was approved by the fifteenth meeting of States parties and by the General Assembly in its resolution 47/111, and encourages the State party to expedite its action formally to accept that amendment.

Senegal

332. The ninth and tenth periodic reports of Senegal, combined in a single document (CERD/C/209/Add.7), were considered by the Committee at its 1046th and 1047th meetings, on 3 and 4 August 1994 (see CERD/C/SR.1046 and 1047).

333. The reports were introduced by the representative of the State party, who referred to his country's commitment to democracy and respect for human rights. He pointed out that Senegal was a party to over 20 international instruments relating to human rights and humanitarian law and that it regularly submitted to the monitoring bodies the periodic reports required of it under nine of those instruments.

334. On the particular question of discrimination, Senegal was a party to the Convention on the Elimination of All Forms of Discrimination against Women, ILO Convention No. 111 and the UNESCO Convention against Discrimination in Education, in addition to the International Convention on the Elimination of All Forms of Racial Discrimination. The Senegalese authorities had formulated a

veritable policy of national integration and prevention and prohibition of all forms of discrimination. Thus, article 3 (1) of the Constitution stated, inter alia, that no political party or association was allowed to identify itself with a particular race, ethnic group, sect, language or religion. That policy had also taken concrete form in the formulation of a cultural charter and a social order designed to cultivate fraternity, solidarity and understanding, in the founding of the Université des Mutants and a human rights and peace institute, and in the establishment of a national system for the promotion of the national languages. Senegal had made an effort to incorporate within its domestic law the essential content of the international conventions to which it was a party and accordingly guaranteed all the rights protected by those conventions. He emphasized the genuine political will of the Senegalese authorities to eliminate any form of discrimination once and for all and stated that in Senegal tolerance and respect for diversity had always been regarded as essential factors in stability and mutual enrichment.

335. Members of the Committee welcomed Senegal's obvious commitment to human rights and the important role Senegal played at the international level, including the Organization of African Unity and the Organization of the Islamic Conference. They congratulated Senegal on the regularity with which it submitted reports under the Convention and on having made the declaration provided for in article 14 of the Convention. They noted that the report submitted was very complete, had been drafted in accordance with the guidelines prepared by the Committee, contained important information and demonstrated that, essentially, Senegal respected its obligations under the Convention.

336. At the same time, however, they said that the report was silent on several important points: it contained almost no information on the effective implementation of national legislation on discrimination; it contained only very general and abstract information on the implementation of articles 5, 6 and 7 of the Convention; it did not contain any information on judicial practice; and, in particular, it made no mention of cases where the provisions of the Convention had been invoked in court, where associations had been banned, or where perpetrators of acts of racial discrimination had been prosecuted and punished.

337. The members of the Committee, after observing that inter-ethnic problems were among the most serious and constant causes of massive violations of human rights, discrimination and, in some cases, political oppression in Africa, expressed a desire to know what Senegal was doing to prevent the deterioration of certain inter-ethnic tensions on its territory in general and what, in particular, it was doing in response to the tension which had manifested itself for some years in the Casamance region. The Committee would welcome details on the situation in that region and on the measures that the Government was considering taking in order to respond to it and to prevent a similar situation from arising elsewhere.

338. Members of the Committee wished to know how the Senegalese Human Rights Committee was organized, how its members were appointed, what its functions were and what role it played in the protection of the rights set forth in the Convention.

339. In connection with article 1 of the Convention, members of the Committee asked why there was no definition of racial discrimination either in the Senegalese Constitution or in the relevant ordinary legislation. They considered that it was essential, in order to be able to condemn racial discrimination, to define it, preferably in the light of article 1 of the Convention.

340. With regard to the implementation of article 4 of the Convention, members noted that Senegal had very comprehensive legislation in that area, consistent with article 4, but observed that the provisions of article 3 (1) of the Constitution forbidding any political party or any association to identify itself with a particular race, ethnic group, sect, language or religion did not actually constitute implementation of article 4 of the Convention. They also stated that the report did not deal with the practical implementation of that legislation, in other words, the specific policies and programmes giving practical effect to the relevant legislation.

341. In connection with article 5 of the Convention, members of the Committee noted that the reports contained no precise information, above all with regard to effective protection, in the context of the Convention, of economic, social and cultural rights, and particularly the right to employment, the right to housing, the right to social services and the right to education.

342. Members asked for further information on the Radio and Television Supervisory Council which managed the use of broadcasting time in electoral campaigns, and particularly whether the Council included representatives of the various ethnic groups and to what extent.

343. As to the right to judicial protection against discrimination (art. 6 of the Convention), members said that it was not enough to proclaim in national law that access to the courts was a basic right; how much were persons potentially exposed to racial discrimination aware of that right and of how to avail themselves of it? They requested that information on that matter, together with the practice followed in implementing the rights enunciated in articles 4, 5 and 7, be included in Senegal's next report.

344. The representative of the State party, replying to the question on the implementation of the provisions of the Convention, said that Senegal had incorporated various international human rights instruments, including the Convention and specifically article 1 containing the definition of racial discrimination, in its national law. Accordingly, the Convention could, under Senegalese law, be applied by a Senegalese court. He stated that the definition of racial discrimination, as contained in the Convention, was set out in Senegalese law as a result of ratification of the Convention. He pointed out that, for 23 years, he had held the post of head of a court of criminal jurisdiction and, during that period, no case of discriminatory practice had been brought before any court. In addition, Senegalese citizens learned through the radio, television and press of the content of anti-discrimination legislation and complainants could refer cases to the courts without incurring any cost.

345. As to population statistics, the representative explained that censuses were conducted not horizontally but vertically; in other words, they were prepared not on the basis of regions but on the basis of ethnic groups, which were often nomadic, and moved with their herds from one region to another. For that reason, the statistics contained in the latest report were slightly different from those in the previous report.

346. With reference to the precarious situation in Casamance, the representative said that the Casamance problem was not of an ethnic nature. He explained that, in Casamance, separatist movements had wanted to secede, something that Senegal, like any other country, clearly could not accept. To settle the problem, the Government had created a reconciliation commission, consisting essentially of inhabitants of Casamance, to work for peace and understanding among all

Senegalese. Its activity had been crowned with success, there had been a cease-fire and an agreement had been reached and was being respected. The Commission was none the less pursuing its task, namely, to restore confidence and unity, so that no region would be marginalized.

347. As to the question of article 4 of the Constitution, prohibiting any regionalist propaganda prejudicial to the internal security of the State, the representative of the State party said that, since independence, Senegal had been concerned above all to consolidate the country and to strengthen the foundations of the Senegalese nation. Article 4 stemmed directly from the concept that all Senegalese should consider themselves first and foremost as Senegalese nationals, regardless of whether they belonged to a particular region. Similarly, Senegal had prohibited political parties created for ethnic, linguistic or religious reasons. That policy in no way impeded the establishment of political parties, which now numbered 17 in Senegal.

348. The representative provided the information requested on the organization and functioning of the Senegalese Human Rights Committee, explaining that, in future, the Committee was to play an increasing role, particularly with the Government. He added that the Ombudsman of the Republic had made major contributions in that connection.

349. The representative of the State party also responded to other questions raised and comments made by the members of the Committee during the consideration of the ninth and tenth periodic reports of Senegal.

Concluding observations

350. At its 1065th meeting, on 17 August 1994, the Committee adopted the following concluding observations.

(a) Introduction

351. Appreciation is expressed for the detailed report submitted by the State party and the comprehensive additional information provided by the delegation in response to the questions and comments of the members of the Committee. It is noted that the report has been prepared in accordance with the Committee's guidelines for the preparation of reports and that the State party has been complying with its reporting obligations under article 9 of the Convention.

(b) Positive aspects

352. It is noted with satisfaction that Senegal has been actively supporting international human rights activities at both the international and regional levels and that it is a party to numerous international human rights instruments, including all the major United Nations instruments under which supervisory mechanisms have been established.

353. In that connection, it is appreciated that all human rights instruments ratified or acceded to by Senegal, including the Convention on the Elimination of all Forms of Racial Discrimination, have been incorporated in Senegalese law by virtue of article 79 of the Constitution and have been given precedence over national legislation.

354. Note is taken of the fact that Senegal has made a declaration under article 14 of the Convention recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation of any of their rights set forth in the Convention.

355. It is also noted that significant progress has been achieved over the years in the legislative field to give effect to the provisions of article 4 of the Convention prohibiting racist activities and propaganda.

(c) Principal subjects of concern

356. Concern is expressed over the lack of adequate information in the report on the measures taken by the State party to implement provisions contained in articles 5, 6 and 7 of the Convention.

357. Serious concern is expressed over the conflict in the Casamance region, where, despite the signing of agreements between the Government of Senegal and secessionists, violence has reoccurred, taking the form of an ethnic conflict.

(d) Suggestions and recommendations

358. The Committee recommends that the State party, in its next periodic report provide information on the measures taken at the national level to implement provisions contained in articles 5 (especially with respect to economic, social and cultural rights), 6 and 7 of the Convention.

359. The State party should also provide the Committee with fuller information on jurisprudence relating to the rights set forth in the Convention.

360. The Committee recommends that the Government of Senegal intensify efforts aimed at finding a durable and peaceful solution to the problems in the Casamance region, with a view to avoiding any further violence and normalizing the situation.

361. The Committee draws the attention of the State party to the amendment to article 8, paragraph 6, of the Convention, which was approved by the fifteenth meeting of States parties and by the General Assembly in its resolution 47/111, and encourages the State party to expedite its action formally to accept that amendment.

Egypt

362. The Committee considered the combined eleventh and twelfth periodic reports of Egypt (CERD/C/226/Add.13) at its 1048th and 1049th meetings, on 4 and 5 August 1994 (see CERD/C/SR.1048 and 1049).

363. The report was introduced by the representative of the State party, who provided brief details of the measures taken to implement the provisions of the Convention since the submission of its previous report. In particular, he informed the Committee of the adoption of legislation in compliance with the obligations laid down in article 4 of the Convention concerning the prohibition of organizations that promote or incite racial discrimination. In addition, the representative highlighted the efforts undertaken by the State party to implement article 7 of the Convention through educational measures and the development of information campaigns designed to raise awareness of human rights and freedoms. The campaigns also sought to offset any attitudes and traditions which might adversely affect the realization of human rights, including those relating to economic development.

364. Members of the Committee welcomed the opportunity to continue the constructive dialogue with the State party; however, they regretted that the report had not been prepared in accordance with the Committee's consolidated guidelines on reporting and had not contained the answers to questions which had remained unanswered during the consideration of the State party's previous report. Further information was also needed on the factors and difficulties encountered in implementing the provisions of the Convention. Equally, it was noted that the report lacked essential information as to the ethnic composition of the population.

365. Concern was expressed over the state of emergency existing in the State party. Reference was made to the violent attacks in recent months and years which had been directed towards foreigners and members of the Coptic church in Egypt, and the problems faced by the State party in addressing that situation. In this connection, members of the Committee wished to know of the measures being taken to protect such groups from attack or harassment.

366. Further information was requested about the status of the Convention in domestic law. In addition, the members of the Committee expressed concern that national legislation did not fulfil all the requirements of article 1 of the Convention. In this connection, they sought clarification as to whether the provisions of article 40 of the Constitution covered race as a ground for non-discrimination, and as to the protection being accorded to non-citizens with regard to their enjoyment of the rights guaranteed under the Convention.

367. Members of the Committee noted that the Egyptian Penal Code in its article 86 _bis_, as amended by Act No. 97 of 18 July 1992, had made it a criminal offence, _inter alia_, to establish any association, body, group or gang which in any way advocated violation of the personal liberty of citizens or of their public rights and freedoms guaranteed by the Constitution and the law, or sought to prejudice national unity and social harmony, and therefore addressed the measures called for in article 4 of the Convention. However, they observed that

the report did not provide full details of the application of that article by the courts in Egypt and any jurisprudence that had developed as a result, particularly with regard to the meaning of national unity and social harmony. Also with regard to the implementation of article 4 of the Convention, the question was asked whether any publications inciting racial hatred, particularly against the Jews, circulated in the country.

368. Regarding article 5 of the Convention, members of the Committee expressed concern that information had not been provided on the extent to which all groups in the population of the State party enjoyed the rights enumerated in that article. Thus, they raised questions as to whether Armenians and Greeks living in Egypt held Egyptian nationality, as well as on the economic and social situation of those groups. Clarification was also requested concerning the measures taken to protect not only the language and traditional life-style of the Nubians, in particular, but also the cultural, economic and social rights of the Nubians, Berbers and Bedouins of Egypt, in general. Questions were also raised regarding the situation of Palestinians living in Egypt. In addition, more information was requested on the application in practice of article 4 of the Political Parties Act No. 40 of 1977, and of the jurisprudence developed as to the meaning of "public order and morality" with respect to the implementation of articles 2 and 33 of the Private Associations and Institutions Act No. 132 of 1964.

369. Concerning article 6 of the Convention, members of the Committee took note of the information contained in the State party's report that, for acts prohibited under article 4 of the Convention, national legislation provided that criminal or civil proceedings in respect of offences were not subject to any statute of limitations and that compensation or redress was available in cases where administrative decisions violated the provisions of the Constitution or the Convention. In that connection, members of the Committee asked how such legislation was applied in practice and requested details of any relevant court cases.

370. Concerning article 7 of the Convention, reference was made to the Committee's general recommendation XIII (42) on the training of law enforcement officials in the protection of human rights and to the value, in general, of educating and informing them about human rights. Mention was made of the role national human rights institutions could play for the protection and promotion of human rights, including those provided for under the Convention. More information was requested about the activities undertaken by the State party on those matters.

371. It was observed that the State party had not made the declaration under article 14 of the Convention; members of the Committee asked whether the State party was considering taking steps to accept the Committee's competence to consider communications received under the provisions of that article.

372. Replying to the questions raised by members of the Committee, the representative of the State party explained that the implementation of article 40 of the Constitution provided for equality before the law and that although its provisions did not specify race or colour, the term "origin", which had been specified in that article, had a very broad meaning in Arabic and covered those aspects. With respect to the laws on nationality, the Committee was informed that the Egyptian authorities were currently considering proposals which would regularize the position of children born to an Egyptian mother and a non-Egyptian father. Moreover, the representative indicated that experts would study the Committee's comments on aspects of Egyptian legislation that might

need to be amended in order to bring them into line with the provisions of the Convention.

373. As for the protection of persons threatened by terrorism, the representative indicated that the measures being taken by the State were designed to ensure better security for both the Egyptian population and visitors to the country.

374. Concerning the implementation of articles 4 to 6 of the Convention, the representative indicated that article 57 of the Constitution provided that criminal and civil proceedings in respect of rights and freedoms guaranteed by the Constitution and the law were not subject to any statute of limitations; such violations constituted an offence and the State was required to guarantee compensation to victims. Providing further information as to the meaning of the concepts of social harmony and national unity under Egyptian law, the representative explained that any of the acts prohibited under the Convention would be considered to infringe national unity and social harmony under Egyptian law. Equally, the concept of public order as understood in Egypt meant that basic rights and freedoms came within the realm of public order and must be scrupulously respected by everyone, including public bodies.

375. With respect to ethnic communities, the representative stated that they enjoyed equal rights and full freedom, including with regard to their own schools, mother tongue instruction and publications in their own languages. The Nubians constituted a homogeneous group within Egyptian society, speaking Arabic with their own dialect. Following their resettlement after the construction of the Aswan Dam, the Egyptian Government had taken account of objections to the type of housing provided and had drawn up plans incorporating the architectural style preferred by the Nubians. There was no discrimination against them. They could practise their own occupations and accede to very high positions. There were Nubian ministers, senior members of the judiciary and teachers at all levels.

376. Regarding implementation of article 7 of the Convention, the representative stated that information about international human rights instruments was included in the curricula of police training schools and training colleges for the judiciary and in continuing education programmes for public officials and police officers. The Centre for Human Rights had provided valuable assistance in that regard, including the organization of a training course for police officers. In addition, the subject was included in both school and university curricula and the authorities sought to increase public awareness of human rights issues, especially among children and young people. The Egyptian Organization for Human Rights had not yet been officially recognized.

377. The representative indicated that his Government was considering making the declaration provided for in article 14 of the Convention but had reached no decision on the matter.

Concluding observations

378. At its 1065th meeting, on 17 August 1994, the Committee adopted the following concluding observations.

(a) Positive aspects

379. The additional oral information provided by the representative of the State party filled many of the information gaps in the written report. This

additional information is appreciated and the opportunity to continue the fruitful, frank and constructive dialogue between the State party and the Committee is highly welcomed.

380. Satisfaction is expressed over the comments made by the representative of the State party as to the importance the State party attaches to the work of the Committee in offering guidance about the implementation of the provisions of the Convention.

(b) Principal subjects of concern

381. Concern is expressed over the paucity of information contained in the State party's report on judicial, administrative or other measures adopted that give effect to the Convention, and their effect upon the situation in Egypt. The lack of that information makes it difficult for the Committee to assess accurately the progress achieved in the realization of the rights provided for in the Convention. In this respect, the omission of details of the demographic composition of the population and the economic and social situation of different groups within the population is regretted.

382. It is unclear as to the extent to which other provisions of national law are applied to promote and protect the rights contained in the Convention. In particular, with regard to the recent measures taken to implement article 4 of the Convention, note is taken of article 86 bis of the Penal Code (Act No. 58 of 1937), as amended by Act No. 97 of 18 July 1992; however information is not provided as to how this provision of the Penal Code is applied in practice.

383. Concern is expressed about terrorist attacks, some of which could be of a xenophobic nature, and their consequences for the State party.

(c) Suggestions and recommendations

384. The Committee recommends that the next report to be submitted by the State party (due since 5 January 1994) provide more information on the actual practice in implementing the provisions of the Convention and that it contain written answers to the questions raised orally during the present consideration of the report of Egypt. It should also contain information on the demographic composition of the population and the social and economic situation of different groups within the population, as well as details of the actual implementation of article 5 of the Convention.

385. The Committee requests further clarification on the measures taken to implement other articles of the Convention, including the definition of racial discrimination as contained in article 1, paragraph 1, of the Convention. In this respect the State party is requested, in its next report, to take into account the information reflected in the Committee's general recommendations XI (42) and XIV (42). In addition, the Committee would like to receive further details of the actual application of articles 4 and 6 of the Convention, including through examples of recent court decisions, if any, particularly with respect to article 86 bis of Penal Code (Act No. 58 of 1937), as amended by Act No. 97 of 18 July 1992. With regard to article 4 of the Convention, the State party's attention is drawn to the contents of the Committee's general recommendation XV (42).

386. Further information is also sought on the implementation of article 7 of the Convention. Additionally, it is requested that the State party, in its next

report, provide information on any national institutions established to promote and protect human rights. In this connection, the attention of the State party is drawn to the Committee's general recommendation XVII (42) on the possible roles of national institutions in facilitating the implementation of the Convention.

387. Finally, the attention of the State party is drawn to the possibility of making the declaration accepting the Committee's competence under article 14 of the Convention. The Committee also draws the attention of the State party to the amendment to article 8, paragraph 6, of the Convention, which was approved by the fifteenth meeting of States parties and by the General Assembly in its resolution 47/111, and encourages the State party to expedite its action formally to accept that amendment.

Iceland

388. The tenth, eleventh and twelfth periodic reports of Iceland, submitted in one document (CERD/C/226/Add.12), and the thirteenth periodic report (CERD/C/263/Add.2) were considered by the Committee at its 1049th and 1050th meetings, on 5 August 1994 (see CERD/C/SR.1049 and 1050).

389. The report was introduced by the representative of the State party, who drew attention to the importance his country attached to the continuation of the dialogue with the Committee. He emphasized that racial discrimination was not a problem in Iceland and that that was why there was no real policy in respect of action to combat racial discrimination. He then gave recent information on legislative changes in Iceland. He said that the European Convention on Human Rights had been incorporated in Icelandic internal law and could thus be invoked before the courts; the incorporation in internal law of United Nations human rights treaties was under discussion at present. The chapter of the Constitution dealing with human rights, whose provisions were outdated, was being revised and, to that end, a study was being carried out on the conformity of Icelandic legislation with the various international treaties ratified by Iceland.

390. Article 11 of new Administrative Law No. 37/1993 expressly stated that any decision had to be taken on the basis of respect for the principle of equality, regardless of the race, colour, religion, nationality, political opinion, etc., of the person concerned. The Law on the Control of Aliens had been amended and expulsions were now ordered by the Immigration Service, which had just been established, and appeals could be made to the Ministry of Justice. A new law, which would enter into force on 1 January 1995, provided for the establishment of the post of the Ombudsman for Children, who would have the power to receive complaints, propose amendments to the legislation in force and monitor the conformity of Icelandic legislation with international treaties relating to the protection of children. The text of the Convention was widely disseminated in schools, in different forms depending on the age group concerned; the reform of the Law on Basic Schools was under way and the delegation was not in a position to provide further information on it, since the content of the reform was still not known. The law on the economic boycott against South Africa had been suspended.

391. The members of the Committee expressed satisfaction with the report of Iceland and the wealth of information provided during the oral introduction by the representative of the State party. They noted that Iceland had followed the Committee's guidelines on the preparation of periodic reports (CERD/C/70/Rev.3)

and welcomed the demographic information and tables supplied by the State party in its report.

392. With regard to article 2 of the Convention, the Committee noted the Government's willingness to consider whether Icelandic legislative texts were in conformity with the texts of international treaties. However, they also noted that there was a lack of specific, positive measures on protection against racial discrimination, although legislation in general did not allow discrimination and was based on the principle of equality. Members of the Committee stressed the need, and the obligation set out in the Convention, to adopt such measures. They asked the representative of the State party whether his Government was planning to take measures with a view to the incorporation of international human rights treaties in Icelandic domestic law. They also asked whether national institutions for the promotion of human rights existed in Iceland.

393. Referring to article 4 of the Convention, the members of the Committee stressed that, although no racist organization had ever existed in Iceland, rules prohibiting such organizations must be enacted since Iceland had not formulated any reservations to article 4 of the Convention.

394. In connection with article 5 of the Convention, the members of the Committee requested the representative of Iceland to provide further information on the legislation on names and its application to foreigners. Members of the Committee said that they wished to know the truth concerning an allegation in a newspaper article stating that an agreement had been concluded by Iceland and the United States of America prohibiting the presence of black servicemen on the United States air force base in Keflavik. They noted that there were many marriages between Icelandic citizens and women from Thailand and the Philippines and asked whether those women were fully integrated into Icelandic society and whether they knew their rights.

395. With regard to article 6 of the Convention, the members of the Committee noted with satisfaction that remedies were available through the courts, the administrative authorities and the Ombudsman, that Iceland had recognized the jurisdiction of the European Court of Human Rights and that it had made the declaration under article 14 of the Convention. Since, as stated in the report, there had been no complaint, no court case and no conviction in Iceland relating to racial discrimination, the members of the Committee asked whether citizens knew their rights in that regard. They also asked whether cases involving racial discrimination had been brought before the European Court of Human Rights.

396. Referring to article 7 of the Convention, the members of the Committee asked whether the training of law enforcement officials included courses on human rights in general and on protection against racial discrimination in particular.

397. Replying to the questions and comments of the members of the Committee, the representative of the State party indicated that the discussion on the possible incorporation of United Nations human rights conventions in Icelandic internal law would not end until the revision of the chapter of the Constitution on human rights had been completed. As far as the prohibition of racist organizations was concerned, article 73 of the Constitution recognized the right to freedom of association for lawful purposes; otherwise, an association was prohibited

temporarily pending a court decision on its dissolution. However, a racist association was not recognized in Iceland as having lawful purposes.

398. Replying to the question about the Keflavik air force base, the representative said that there was no agreement between the Governments of Iceland and the United States prohibiting the presence of black servicemen on that base and that there were, in fact, black servicemen stationed there.

399. The legislation on names provided that there were no family names in Iceland. The name was composed of the first name, the choice of which was limited to Icelandic first names, and the father's name followed by "son" or "daughter". A foreigner who wished to acquire Icelandic nationality had to choose an Icelandic first name that he added to his own; his children aged under 15 and those born in Iceland had to comply with the legislation on names and give up their family name. That law was the subject of much criticism both nationally and internationally and it was being changed. Replying to the question on the integration of the Thai and Philippine wives of some Icelanders, the representative indicated that such women enjoyed the same rights as any other person in Iceland, but it was difficult to be sure about their integration into Icelandic society because no records were kept on them.

400. The European Commission of Human Rights had received between 20 and 30 complaints from Iceland, only two of which had gone before the Court; none of those complaints related to a case of racial discrimination. With regard to the training of officials, the representative indicated that jurists received human rights instruction during their law studies and that police training courses included familiarization with human rights.

Concluding observations

401. At its 1065th meeting, held on 17 August 1994, the Committee adopted the following concluding observations.

(a) Introduction

402. The State party is commended for the quality of its report, drawn up in accordance with the Committee's guidelines for the preparation of State party reports (CERD/C/70/Rev.3). Satisfaction is expressed at the frank and constructive approach taken by the representatives of the reporting State in their dialogue with the Committee and for the additional information they provided with regard to recent developments relating to the implementation of the Convention in Iceland. It is regretted, however, that the tenth, eleventh and twelfth periodic reports were not submitted in due time.

(b) Positive aspects

403. The efforts made to harmonize national legislation with the provisions of the Convention are welcomed. In that connection, note is taken of the revision of the chapter of the Constitution relating to human rights, of the new Administrative Law N.37/1993, and of the revision of Law N.45/1965 on the Control of Aliens. Note is also taken of the establishment of the office of the Ombudsman of the Althing in 1988.

(c) Principal subjects of concern

404. Concern is expressed as to the status in the domestic legal order of Iceland of the Convention, which is not incorporated in national law, and therefore cannot be directly applied in the courts.

405. Note is taken that too little attention is paid to foreigners and minorities in the Icelandic legal system and that there is no specific legislation in Iceland in the field of racial discrimination.

406. Concern is expressed that the State party has not implemented the provisions contained in article 4 (b) of the Convention.

(d) Suggestions and recommendations

407. The Committee recommends that Iceland incorporate the Convention in national law.

408. The Committee recommends that the Government take further measures to implement fully the provisions of article 4 of the Convention, which are of a mandatory character as stated in general recommendation VII (32) of the Committee and which oblige States parties to declare illegal and prohibit organizations that promote and incite racial discrimination.

409. The Committee would welcome any information that the State party is able to provide concerning measures taken to combat racial discrimination in the fields of teaching, education, culture and information.

410. The Committee draws the attention of the State party to the amendment to article 8, paragraph 6, of the Convention, which was approved by the fifteenth meeting of States parties and by the General Assembly in its resolution 47/111, and encourages the State party to expedite its action formally to accept that amendment.

Luxembourg

411. The Committee considered the combined sixth and seventh reports and the eighth report of Luxembourg (CERD/C/206/Add.1 and CERD/C/236/Add.1 respectively) at its 1051st meeting, on 8 August 1994 (see CERD/C/SR.1051).

412. The reports were introduced by the representative of the State party, who provided information on developments since the examination of the previous report of the State party. He indicated that 32.4 per cent of the population was composed of foreigners, many of whom were nationals of the European Union. Since foreign children made up over 40 per cent of the school population, a number of measures had been taken to overcome any language problems encountered by these children. For example, the number of pupils per class had been reduced and an additional year of primary schooling had been introduced. In addition, teaching in the mother tongue of foreign pupils had been included in the primary curriculum in some communes during the 1993/1994 school year. The authorities, through the school inspectorate, were endeavouring to persuade other communal school boards to provide such teaching. In addition, the Ministry of the Family gave financial support to a non-governmental organization promoting socio-cultural activities. In many of the communes where over 20 per cent of the population were aliens, special consultative commissions responsible for foreign residents had already been established. Moreover, information and services had

been provided to immigrants on their rights and the means of recourse available to them. Although a vigorous campaign had been undertaken to encourage citizens of the European Union to enter their names on the electoral rolls, only 6,907 of the eligible 45,000 Union citizens had registered.

413. The representative said that an act concerning the integration of aliens in the Grand Duchy of Luxembourg had been adopted on 27 July 1993; its purpose was to facilitate the integration of aliens and provide for their social welfare. The act provided for coordination of policy concerning aliens through an interministerial committee and the Aliens Commission.

414. He also informed the Committee that racist and xenophobic acts had resurfaced in Luxembourg as in other European countries. The most serious event had been the defacing of gravestones in a Jewish cemetery by the inscription of swastikas on 27 February 1994, and the posting of anti-Black slogans. The authors of those acts had not been traced. In addition, there were 15 official police reports on the appearance of pro-Nazi graffiti in 1992, 4 in 1993 and 3 in 1994; and 4 official police reports of thefts accompanied by pro-Nazi graffiti in 1992, and 4 in 1993. In response to such developments the authorities had stated that the sale or wearing of Nazi insignia was likely to cause a public disturbance and as such was against the law.

415. Members of the Committee expressed their appreciation to the State party for its reports, prepared, as they were, in accordance with the reporting guidelines and for the additional oral information presented by the State party's representatives, which enabled the Committee to gain a fuller appreciation of the political, legal and institutional framework in Luxembourg.

416. Further information was requested on the status of the Convention in domestic law. Since the Constitution contained no provisions condemning or prohibiting racial discrimination, the State party was requested to consider adding such a provision to its Constitution.

417. Members of the Committee expressed interest in receiving further information on the initiative establishing consultative commissions for aliens at the communal level, particularly with regard to their functions, and why certain communes had failed to set up such commissions.

418. Concern was expressed that national legislation did not fully meet the requirements of article 4 of the Convention, as the relevant provisions of the Penal Code, in particular its articles 454 and 455, neither penalized the dissemination of ideas based on racial superiority or hatred, in the broadest sense, nor did they prohibit organizations or propaganda activities that promoted and incited racial discrimination.

419. With respect to article 5 of the Convention, members of the Committee noted the high proportion of foreign students, particularly from European Union countries, in schools and the provision made to teach them in their mother tongue at primary school level. It was asked what arrangements had been made to teach them the language and culture of their countries of origin in secondary schools. In addition, members of the Committee observed that generally a distinction was made between nationals of member States of the European Union and those of other countries with regard to the enjoyment of the rights provided under article 5 (e) (i) of the Convention; and that such a practice was common to all member States of the European Union in view of the trend towards European integration. It was also noted that other regulations existed in the State

party which placed nationals of specified third party States on the same footing as European Union citizens. Members of the Committee asked for clarification on those matters and indicated that further study on the issue of European Union policy as to the treatment of non-nationals and on freedom of movement and its relationship to the Convention was required. More information was also requested on immigration to the State party of persons from regions other than Europe, and the situation of refugees from the former Yugoslavia in the State party.

420. In connection with article 6 of the Convention, members of the Committee requested further information on the remedies available in courts and other national bodies in the event of any act of racial discrimination. They also wished to know more about the sentences handed down in the cases of acts of racism mentioned in paragraph 8 of the eighth report and how many complaints had been filed on alleged acts of racism.

421. With regard to article 7 of the Convention, members requested further information on the measures taken in the areas of education, culture and information to combat prejudices that fostered discrimination and intolerance. In that regard, particular attention was drawn to the phenomenon of the involvement of younger people in racist movements and organizations. The importance of incorporating into school curricula information on the Convention and other measures to prevent discrimination was emphasized.

422. Further details were requested concerning the work of national human rights institutions. The question was also asked as to whether the State party had notified the Secretary-General of its acceptance of the amendments to the Convention regarding the financing of the meetings of the Committee.

423. Members of the Committee drew the attention of the State party to the complementarity between the European human rights system and the United Nations system with regard to the consideration of communications concerning racial discrimination. Thus, members of the Committee wished to know whether the State party was considering making the declaration recognizing the Committee's competence to receive and consider petitions under article 14 of the Convention on the Elimination of All Forms of Racial Discrimination.

424. Replying to the questions raised, the representative of the State party indicated that the provisions of the Convention already had the same legal force as the Constitution in Luxembourg; however, he would recommend to his Government that the Convention be incorporated in the Constitution.

425. With regard to the matter of mother-tongue education in secondary schools, the Committee was informed that pupils in secondary schools could choose between instruction in Italian, Portuguese, English, French or German.

426. Concerning the situation of refugees from the former Yugoslavia, the representative stated, inter alia, that there were more than 2,700 such refugees living in Luxembourg and that their status had been defined after consultations with the Office of the United Nations High Commissioner for Refugees, which had led to recognition of their right to work in Luxembourg. The representative of the State party also indicated that his Government's next report to the Committee would contain more information on the consultative commissions, including an assessment of their progress. In addition, it would provide more details of the statistics on cases of racial discrimination and any penalties imposed by the courts.

427. Regarding the measures taken to coordinate the activities of non-governmental organizations in the field of human rights, the representative stated that the Luxembourg Institute for Human Rights had been set up in 1992 to coordinate human rights activities.

428. The Committee was also informed by the representative of the State party that the Government of Luxembourg was in favour of the amendments to the Convention relating to the financing of the Committee's work from the regular budget of the United Nations and as such his Government would notify the Secretary-General of its acceptance of those amendments.

Concluding observations

429. At its 1065th meeting, on 17 August 1994, the Committee adopted the following concluding observations.

(a) Introduction

430. The submission of reports prepared in accordance with the guidelines on reporting under the Convention is appreciated. The additional oral information presented by a high-level delegation is also welcomed.

(b) Positive aspects

431. Note is taken of the importance the State party attaches to the protection and promotion of human rights, especially through its contribution in international and regional forums, as well as the measures being taken at the national level. In particular, the recent information programmes instituted by the Ministry of the Family to inform immigrants, including through multilingual radio broadcasts, of their rights and the services provided and benefits available to them are welcomed. The decision of the Government to involve the non-governmental community in the dissemination of information against intolerance, racism and xenophobia is also noted.

432. The initiative to establish consultative commissions in communes where over 20 per cent of the resident population is alien is also noted with interest.

(c) Principal subjects of concern

433. It is noted that racist and xenophobic acts, though very few in number, have been committed in Luxembourg.

434. Regret is expressed at the lack of information contained in the State party's reports on the breakdown and number of non-European Union members residing in Luxembourg.

435. While note is taken of the provisions of articles 454 and 455 of the Penal Code, the concern remains that the State party has not taken sufficient measures to implement the provisions of article 4 of the Convention.

436. It is noted with regret that the fullest information on the implementation of articles 5, 6 and 7 of the Convention was not provided in the reports of the State party.

(d) Suggestions and recommendations

437. The Committee requests that the State party provide further information in its next report on the breakdown of the population, particularly with regard to persons who are not nationals of States members of the European Union, as well as on its immigration policy.

438. The Committee would appreciate receiving in the next report further information on the measures taken to implement all the provisions of article 4 of the Convention, particularly with regard to declaring illegal and prohibiting organizations that promote and incite racial discrimination.

439. The Committee requests that further clarification be provided on the implementation of article 5 of the Convention in the State party with respect to persons who are not nationals of States members of the European Union.

440. With respect to article 6 of the Convention, the Committee would appreciate receiving further information on the number of complaints of racial discrimination, the outcome of the prosecution of cases of racial discrimination and the redress, if any, provided to persons suffering from such discrimination.

441. The Committee requests the State party to provide further information in its next report on the implementation of article 7 of the Convention, particularly with respect to the measures taken in the field of teaching and education in schools for combating prejudice and promoting tolerance and the information being disseminated to youths in this regard.

442. The Committee encourages the State party to consider making the declaration provided for under article 14 of the Convention concerning the acceptance of the Committee's competence to receive and consider petitions.

443. The Committee draws the attention of the State party to the amendment to article 8, paragraph 6, of the Convention, which was approved by the fifteenth meeting of States parties and by the General Assembly in its resolution 47/111, and encourages the State party to expedite its action formally to accept that amendment.

Sudan

444. In concluding observations adopted on the consideration of the eighth periodic report of the Sudan (CERD/C/222/Add.1), the Committee requested, in accordance with article 9, paragraph 1, of the Convention, further information on the implementation of the Convention in the Sudan. The Committee subsequently considered that information (CERD/C/222/Add.2) at its 1052nd and 1053rd meetings, on 8 and 9 August 1994 (see CERD/C/SR.1052 and 1053).

445. The report was introduced by the representative of the State party, who emphasized the importance attached by his country to the continued dialogue with the Committee.

446. The representative said that the conflict in the south of the country was not racially motivated and that the Sudan was not an arena for acts of racial discrimination. He noted, however, that the country's wealth was not equitably distributed among the various regions, a phenomenon which dated from the colonial era and which the current Government was trying to remedy by, among other measures, adopting constitutional decrees. Decree No. 10 of October 1993

had divided the Sudan into 26 states. Ten states had been created in the south - although on the basis of the size of its population, it should have comprised only seven states - which gave a greater voice to the minorities living there. Decree No. 7 embodied the human rights of all citizens, rights which were now part of the Constitution. By Decrees No. 8 and No. 9, the Revolutionary Council for National Salvation had, prior to its dissolution, appointed a President of the Republic who would subsequently be elected by universal suffrage. At the same time, a Transitional National Assembly had been set up, together with the State Councils. The elections deriving from those constitutional changes, which had initially been scheduled for March 1994, would be held in March 1995.

447. He also said that a number of corridors had been opened up to enable relief supplies to reach populations living in the war zones and that, at the urging of countries in the region (Ethiopia, Eritrea, Kenya, Uganda), the Sudan had proclaimed a unilateral cease-fire, which the rebels had also observed. A programme for the resettlement of populations displaced by natural disasters and the armed conflicts had been set up by the Government.

448. He noted that the Sudan had opened its doors to many non-governmental organizations and to the Special Rapporteur of the United Nations Commission on Human Rights.

449. The members of the Committee noted with appreciation the statement in the report that the Sudan was a multiracial, multireligious and multicultural society. They thanked the delegation of the Sudan for having come to provide the additional information requested by the Committee during its consideration of the Sudan's eighth periodic report and expressed their satisfaction with the information. They welcomed the Government's intention to ask for technical assistance under the advisory services programme of the Centre for Human Rights in preparing its next periodic report.

450. With regard to article 2 of the Convention, the members of the Committee asked what powers were conferred on the Transitional National Assembly, on what basis the 10 states in the south of the country had been established and whether the population had had any voice in the drawing of their boundaries. They also asked to what extent citizens actually benefited from the new constitutional and legislative provisions. They also wanted to know about the nature and legal force of the document on human rights issued by the National Assembly. They asked how the Government intended to comply with its obligations under the Convention if it was unable to amend a law based on the Koran, as referred to in paragraph 26 of the report, if that law were contrary to the provisions of the Convention.

451. With regard to article 5 of the Convention, the members of the Committee asked for information on internally displaced Sudanese and those who were refugees in Uganda, Kenya, Zaire, Ethiopia and the Central African Republic, and on the measures taken to encourage them to return. The Committee also asked how the resettlement of displaced populations was progressing, particularly in the Nuba Mountains, and whether the resettled populations were actually the ones which had been displaced.

452. They asked for explanations on the numerous allegations of torture, whether practised by members of government security forces or not, and on judicial sentences involving corporal punishment (amputation and flogging). They also

asked to what extent it was the courts alone which decided to keep an individual in detention for more than 24 or 48 hours.

453. The members of the Committee inquired whether the Shariah was applied in the non-Muslim states in the south of the country. They noted that religious and ethnic discrimination was practised against displaced non-Muslim populations in the north, and throughout the country in the civil service, schools, universities and commercial enterprises.

454. The Committee wished to know more about the privatization of newspapers and the establishment of private newspapers as recommended by the new press code. They also asked to what extent freedom of association and peaceful assembly were guaranteed.

455. Regarding article 6 of the Convention, the members of the Committee asked for clarifications on the independence of the judiciary, as referred to in paragraph 12 of the report, particularly as far as the procedures for appointing and removing judges and their training were concerned.

456. Replying to the questions and comments of members of the Committee, the representative of the Sudan said that the federal legislative powers had been transferred to the Transitional National Assembly upon the dissolution of the Revolutionary Council for National Salvation. The Transitional National Assembly had been set up pending the elections scheduled for 1995. He went on to say that the document on human rights issued by the Transitional National Assembly had legal status by virtue of Constitutional Decree No. 7, which embodied all human rights and fundamental freedoms.

457. With regard to the equitable distribution of wealth among the country's regions, he said that each of the 26 states into which the Sudan was now divided had its own resources derived from local taxes and federal sources. The relative powers of the states and the central Government were set out in articles 8, 9 and 10 of Constitutional Decree No. 4. Each southern state had a governor of southern origin, and six ministers, five of southern origin and one from the north. The reverse was true in the north of the country. The task of drawing the borders of the new states in the south had been entrusted to a committee made up of prominent persons from each province, which had spent six months in consultation with the local inhabitants, who had welcomed the results of the committee's work.

458. Replying to the question on the compatibility of Islamic law with international instruments, he said that there was no essential contradiction between the two.

459. On the question of refugees, he said that the majority of those who had fled the fighting in the south had sought refuge in the north of the country and not in neighbouring countries. The 250,000 Sudanese in neighbouring countries were either rebels who had not accepted the general amnesty or persons situated beyond the rebel lines and who could not therefore seek refuge in northern Sudan.

460. He said that preventive detention was governed by the National Security Act and that initially it had not been subject to any judicial review. The National Security Act had subsequently been placed under the supervision of the Minister of Justice, and thus of the judiciary. Furthermore, preventive detention could

not exceed 72 hours and could be extended only with judicial approval. There were many safeguards against improper or unlawful detention.

461. With reference to the situation in the Nuba Mountains, he quoted from a report by the Foreign Minister of a western country following a visit to refugee camps and villages in the region, which stated that the situation had improved in terms of water, food and medical supplies, the mortality rate, aid from Sudanese Christian and Muslim organizations and security. People were reported to be gradually returning to the deserted villages. Talks with representatives of two Churches had shown that the problems of the past, such as restrictions on freedom of movement and arrests of priests, had ceased. Sudanese nationals also had the right to change religion. Apostasy was a separate issue.

462. Abuses committed by members of the security forces were punishable under articles 89 and 90 of the Penal Code. Information relating to the trials of security and police officers had been made available to the Commission on Human Rights and could be supplied to the Committee. In some cases, the trials in question had led to the imposition of the death penalty.

463. Referring to questions on the independence of the judiciary, he said that, under article 7 of Constitutional Decree No. 1, the judiciary had the same status as before the assumption of power by the new Government. The appointment and removal of judges and magistrates were provided for in the 1986 Act concerning the judiciary.

Concluding observations

464. At its 1068th meeting, on 18 August 1994, the Committee adopted the following concluding observations.

(a) Introduction

465. Appreciation is expressed to the State party for the further information it submitted as requested by the Committee (A/48/18, para. 127) and for the presence of a competent delegation which presented that information to the Committee. It is regretted that the findings of the commission of inquiry appointed on 26 November 1992 are still not available for the Committee's consideration. Although the report focused primarily on legislative changes and contained little information on the actual implementation of legal guarantees recently enacted, the responses of the delegation provided much useful information on the situation in the Sudan, including the impact of the legislative and policy-making changes on Sudanese society. Appreciation is also expressed for the frankness of the delegation's responses to the questions and comments of the Committee members and the spirit of cooperation exhibited by the State party.

(b) Positive aspects

466. The State party's characterization of Sudanese society as multiracial, multireligious and multicultural is welcomed. In that regard, it appears that the State party has begun building the legislative structure and institutions necessary for implementing a policy of non-discrimination and for breaking down the barriers that have historically limited contacts between the Muslim and non-Muslim communities.

467. The declaration of the representative concerning the preeminence of the rule of law in the Sudan is welcomed. In this connection, it is noted that the promulgation of Constitutional Decree 789 represents progress in areas such as participation in Government and contains limited guarantees for freedom of religion, equality before the law and other basic rights and fundamental freedoms.

468. It is noted that major efforts appear to have been made regarding the search for solutions to the problems arising from the continuing ethnic conflict in the southern part of the country. In that connection, the changes in arrangements for a more equitable sharing of power among federal, state and local authorities are welcomed.

469. The State party's request for assistance from the Advisory Services and Technical Assistance Programme of the Centre for Human Rights is also welcomed.

(c) Principal subjects of concern

470. It is unclear whether racial discrimination has been defined in national law and whether racist activities, organizations and propaganda have been criminalized as required under the Convention.

471. Further to the Committee's concluding observations adopted at its forty-second session, concern continues regarding the dichotomy between legal provisions and their actual application. In this respect more demographic information is needed, particularly the results of the 1993 census. It is noted that continuing social and economic disparities between the northern and southern populations may constitute de facto discrimination and obstacles to the resolution of the ongoing conflict.

472. While taking note that the Sudan has received many refugees from other countries, the Committee expresses its deep concern over the large number of Sudanese who have become homeless as a result of the continuing conflict and who remain either internally displaced or as refugees living outside the country.

473. Concern is expressed over the application of legal guarantees in actual practice to prevent racial discrimination with respect to a number of fundamental freedoms, including the right to choose and to change one's religion. Concern is also expressed concerning the effective curtailment of police powers and concerning the independence of the judiciary, including conditions pertaining to the appointment, training and dismissal of magistrates.

(d) Suggestions and recommendations

474. The Committee recommends that the State party take further steps to strengthen respect for human rights and non-discrimination in the Sudan, particularly by clearly defining and prohibiting racial discrimination in the law as well as penalizing racist activities, organizations and propaganda as required under article 4 of the Convention.

475. The Committee recommends that the Government of the Sudan continue to take measures aimed at building confidence between the Arab and non-Arab communities and ensure that there are no legal barriers contributing to the separation of the two communities.

476. The Committee expresses its support for all efforts to end the continuing conflict with the aim of restoring the rule of law and respect for human rights, particularly with regard to the elimination of all forms of racial discrimination. In that connection, the Committee recommends that concrete steps be taken to encourage the voluntary return of all refugees and persons displaced in the conflict.

477. Underlining the crucial area of the administration of justice with regard to eliminating racial discrimination, the Committee recommends that police power be curtailed and that judges decide on the legality of detainment within reasonable time after arrest or taking into custody of a suspect. In this connection, the Committee points out that the State is obligated to ensure that law enforcement officials are fully responsible for adhering to the requirements of the Convention and that excesses of the security forces must be punished.

478. The Committee draws the attention of the State party to the amendment to article 8, paragraph 6, of the Convention, which was approved by the fifteenth meeting of States parties and by the General Assembly in its resolution 47/111, and encourages the State party to expedite its action formally to accept that amendment.

Spain

479. The tenth, eleventh and twelfth periodic reports of Spain, submitted in one document (CERD/C/226/Add.11), were considered by the Committee at its 1054th, 1055th and 1056th meetings, on 9 and 10 August 1994 (see CERD/C/SR.1054-1056).

480. The report was introduced by the representative of the State party, who emphasized that Spain attached great importance to the promotion of racial equality and indicated that the Spanish Government had taken various measures to combat and prevent all manifestations of racism, xenophobia and intolerance. The Government authorities, backed by the media, had launched awareness campaigns to promote an attitude of tolerance and to encourage pluralism. The new Criminal Code, which would soon be submitted to Parliament, provided that racist or xenophobic motivation for an offence would be an aggravating circumstance and that the dissemination of any ideology encouraging discrimination or racial hatred would be punishable. Several other measures had been taken to protect foreign workers, including illegal workers. The Ministry of Social Affairs had been implementing the Gypsy Development Plan since 1988. The Government was about to conclude an agreement with the media and the Autonomous Communities on the self-regulation of the media with regard to matters relating to the protection of ethnic minorities living in Spain.

481. The members of the Committee welcomed the resumption of the dialogue with the Spanish delegation and thanked the representative of the State party for the additional information he had provided in his oral introduction. Members expressed dissatisfaction with the extreme brevity of the written report, which had not been prepared in accordance with the Committee's guidelines, did not contain data on the demographic and ethnic composition of the Spanish population and did not give answers to the questions asked during the consideration of earlier reports. They hoped that the Spanish Government would provide fuller information on those points in its next report. The members of the Committee also wished to receive additional information on the competence and powers of the Autonomous Communities in relation to the central Government.

482. In respect of article 2 of the Convention, the members of the Committee requested more detailed information on the situation of the Gypsies and on the specific measures adopted by the Government to ensure the development of that community, to implement the national Gypsy Development Plan and to put an end to the discrimination to which they continued to be subjected in different areas. Questions were also asked about the situation of the inhabitants of Ceuta and Mellila. Reference was made to the increase in acts of xenophobia and racial discrimination against foreigners and immigrants. The Committee wanted to have details of specific cases of attacks and racial discrimination and asked what measures had been adopted to prevent such manifestations, particularly by Spanish officials and police officers, and to what legal proceedings and convictions such acts had given rise. Clarifications were requested on some provisions of the Rights and Freedoms of Aliens in Spain (Organization) Act (No. 7/1985) which placed restrictions on freedom of movement, assembly and education. Members of the Committee asked what legal provisions had been adopted since 1986 on conditions of entry into and employment in Spanish territory and, in general, on the Spanish Government's current policy on foreign immigration. Members of the Committee asked whether the legislation and government policy on the right of asylum and the legislation applicable to refugees had recently been amended.

483. With regard to the implementation of article 4 of the Convention, the members of the Committee asked what the exact scope of the reform of the Criminal Code would be and whether the new provisions would make it possible to dissolve organizations that promoted racism and to punish the persons responsible, in accordance with the provisions of article 4 (b) of the Convention. They also asked about the provisions of the future code on action to combat terrorism and separatism.

484. The members of the Committee regretted the lack of information on the implementation of the provisions of article 5 of the Convention. Concern was expressed about de facto discrimination against members of the Gypsy community in the spheres of housing, education and employment and against migrant workers and foreign nationals in general. Also in connection with article 5 of the Convention, information was requested on specific reported cases of racial discrimination in daily life and on the implementation of ILO Convention No. 111.

485. Referring to article 6 of the Convention, the members of the Committee requested additional information on the functions of the People's Advocate, the coordination of his functions with those of the corresponding institutions in the Autonomous Communities, the number and type of complaints filed with the People's Advocate, the impact of his recommendations and the content of his annual report. The members of the Committee also welcomed the adoption of new rules on the use of the languages of the Autonomous Communities in administrative procedures. They asked for further information on decisions by the Constitutional Court and the ordinary courts relating to questions of racial discrimination.

486. On the subject of article 7 of the Convention, the members of the Committee asked about the dissemination in Spain of international human rights instruments and whether there was any institution dealing specifically with problems of racial discrimination. They also requested information on the action being taken by the Spanish Government to combat racial discrimination in the police force and to promote understanding and tolerance towards foreigners.

487. The members of the Committee expressed the hope that the State party would consider making the declaration under article 14 of the Convention and withdrawing its reservation to article 22 of the Convention. They also expressed the hope that Spain would deposit the necessary instruments for acceptance of the amendment to the Convention adopted by the States parties in January 1992 and endorsed by the General Assembly in December 1992.

488. Replying to the questions raised by the members of the Committee, the representative of the State party indicated that the total population of Spain was 38.9 million; the Gypsy population was approximately 600,000; there were some 400,000 aliens resident in Spain as of the end of 1992, about half of whom were Europeans. There had been 11,708 applications for political asylum in 1992, among which 7,350 had been heard and 296 had been successful.

489. As to the relationship between the Autonomous Communities and the central administration, the representative explained that those issues were governed by articles 143 et seq. of the Constitution and that all the Autonomous Communities enjoyed considerable responsibility for their own affairs. Article 171 (c) of the Constitution stated that the Constitutional Court was empowered to rule on the division of powers between the Autonomous Communities and the central administration. The Constitutional Court also resolved disputes between the Autonomous Communities themselves.

490. Replying to questions about the implementation of article 2 of the Convention, the representative provided details on the Gypsy Development Plan of the Ministry of Social Affairs, the main aim of which was to ensure equality between Gypsies and other Spaniards, to guarantee social integration and respect for their culture, to help them live peacefully with other Spaniards, to improve their living conditions and to encourage their participation in public life. The authorities were aware of the need to provide training for officials in dealing sensitively with Gypsies and other minority groups. All the activities concerned with Gypsy development were coordinated by the Ministry of Social Affairs through an interministerial working group. As to the education of Gypsy children, who were integrated into the school system, a programme providing special classroom assistance for teachers had been set up by the Ministry of Education. Efforts had already been made in the area of housing for the Gypsy community.

491. With regard to the Rights and Freedoms of Aliens in Spain (Organization) Act (No. 7/1985), the representative explained that compulsory residence could only be imposed on foreign nationals whose situation in Spain was irregular. As to the provisions making possible the suspension of the activities of associations made up of foreign nationals, they had been declared unconstitutional by ruling No. 115/1987. Concerning educational rights of foreign nationals, it was stated that foreigners could open and run educational establishments if similar rights were afforded to Spanish citizens in the country concerned. The representative also referred to new legislation relating to foreign nationals adopted since Spain had joined the European Union in 1986, including Royal Decree No. 511 of 14 May 1992 instituting the Interministerial Commission for Foreign Nationals, and the Order of 24 May 1994 setting up the Spanish committee of the European campaign for youth against racism, xenophobia, anti-semitism and intolerance planned for 1995. Details were also provided on the awareness campaign for some 876,000 public officials.

492. Concerning the recent Act on Asylum and Refugee Status (No. 9/1994), the representative stated that the new Act provided for measures to ensure

that applications for asylum were dealt with as quickly as possible. Asylum-seekers held at airports were not considered to be under detention, but merely held pending the processing of applications. Nevertheless, since some had regarded such action as unconstitutional, the matter was at present being reviewed by the People's Advocate.

493. The representative provided the Committee with some information on the role and functions of the office of the People's Advocate. She added that three of the Autonomous Communities, Galicia, Catalonia and Andalusia, had their own People's Advocates to deal with complaints from within their areas, and it was hoped that the practice would be extended in time to the rest of the Autonomous Communities.

494. With regard to article 4 of the Convention, she stated that the need to give protection against racist and xenophobic acts, in compliance with article 4 of the Convention, would be met in the extensive reform of the Criminal Code at present under way. The revised Code would explicitly make it an offence to provoke or excuse racial or other discrimination against individuals or groups by any means, including the printing and publication of material for the purpose. She referred to provisions of the present Criminal Code, which provided remedies against racial discrimination, but said that, although most racist and xenophobic offences were dealt with in the current Code, it was frequently by implication; the draft revised Code would list such offences explicitly. Referring to the media, the representative explained that an agreement on the principle of self-regulation of the media with regard to certain subjects had been reached between the Ministry of Social Affairs, the councils of Autonomous Communities and representatives of the media; it represented an important advance towards preventing the use of derogatory language about minority groups and ensuring objective reporting of events involving racial discrimination. The representative also provided some details about a number of specific cases of racist acts against particular individuals that had been referred to by members of the Committee in the course of the discussion and gave information on the proceedings that had been instituted against those responsible for such acts.

495. The representative acknowledged the difficulties for Committee members when information was provided orally rather than in a written report. She had taken note of all questions and of the complementary explanations requested. They would be covered in the next periodic report which was promised to be submitted before the next session of the Committee.

Concluding observations

496. At its 1066th meeting, on 17 August 1994, the Committee adopted the following concluding observations.

(a) Introduction

497. While the opportunity to continue the dialogue with the Government of Spain is welcomed, it is regretted that the report is excessively short and lacks basic information on the implementation of the Convention and has not been drawn up in accordance with the general guidelines established by the Committee for the preparation of States party reports. It is noted, however, that the additional information provided by the delegation in introducing the report and the comprehensive replies given to the questions raised in the course of the discussion enabled the Committee to obtain a clearer picture of the situation in the State party. Nevertheless, this oral information cannot replace the obligation of the Government of Spain to provide the written report on the measures adopted, as established in article 9, paragraph 1, of the Convention.

(b) Positive factors

498. It is noted with satisfaction that various measures have been adopted to prevent and intensify the struggle against racial discrimination and xenophobia. In that connection, appreciation is expressed for the new legislation enacted to ensure that administrative proceedings are conducted in the language chosen by the person concerned (Act No. 30/1992). The planned modifications of the Spanish Criminal Code, which is expected to introduce racial discrimination as an aggravating circumstance in offences against persons and will include new offences on the ground of racial discrimination, is welcomed, as are the active role of the media in the combat against racism and xenophobia and the various campaigns launched both by public authorities and non-governmental organizations to sensitize law-enforcement officials, government employees and the public at large against manifestations of racial discrimination.

(c) Principal subjects of concern

499. Serious concern is expressed at the increasing manifestations of racism and xenophobia against foreigners, in particular migrant workers, as well as acts of hostility against members of the Gypsy community and manifestations of anti-semitism and other racial intolerance.

500. Insufficient information was provided in the report about the demographic composition of the Spanish population, as well as on the number of foreign nationals residing in Spain. More comprehensive information is also requested about the division of responsibilities between the central Government and the Autonomous Communities.

501. Concern is expressed that the Spanish law enforcement officials have, in several instances, failed to provide effective protection to potential victims of xenophobia and racial discrimination.

502. Concern is expressed that the State party is not fully implementing the provisions of article 4 (b) of the Convention and it has not provided information on the practical implementation of the provisions of article 4.

503. No information was provided in the report on the implementation of the provisions of article 5 of the Convention. Concern is expressed about de facto discrimination against members of the Gypsy community in the spheres of housing, education and employment, and against migrant workers and foreign nationals in general.

504. It is also regretted that insufficient information was provided on the implementation of article 6 of the Convention, notably on the number of complaints of racial discrimination and available remedies, as well as the practice of the tribunals. More information was also necessary on measures to strengthen human rights education and training, in conformity with the provisions of article 7 of the Convention.

(d) Suggestions and recommendations

505. The Committee recommends that the next periodic report of the State party be submitted in time for consideration by the Committee at its next session in March 1995 and be prepared in conformity with the reporting guidelines.

506. The Committee expresses the wish that the next report of the State party should contain detailed information on the implementation of the provisions of the Convention. The State party is requested to respond, in its thirteenth report, to the various comments made by the members of the Committee during the consideration of the present report and to reflect the complementary information provided orally by the delegation in the course of the discussion. In particular, information is requested on the demographic and ethnic composition of the Spanish population and foreigners with residence in Spain; on the relationship between the central Government and the Autonomous Communities and their respective spheres of competence with regard to racial discrimination issues; on measures taken and progress achieved in implementing the National Plan for the Advancement of Gypsies and on the Government's policy towards Spaniards and Muslims in Ceuta and Mellila. The Committee also requests detailed information on actual cases of incidents of a racist or xenophobic nature and measures taken to ensure that such manifestations of racism are not permitted.

507. With regard to article 2 of the Convention, it is recommended that the next report should include sufficient information on the provisions of the Rights and Freedoms of Aliens Act, in particular, article 9. Information is also requested on the new law of asylum. More information should be provided on recent regulations and policies concerning foreign nationals. Information is also sought on the activities and complaints of the People's Advocate in matters relevant to the application of the Convention.

508. The Committee emphasizes that the State party should fully comply with its obligations under article 4 of the Convention and that necessary legislative measures should be taken in order to give effect to the provisions of that article. In view of the fact that a new draft criminal code will soon be submitted to the Parliament for approval, it is recommended that the requirements of article 4 be taken into account, as well as the suggestions of the Committee, in order to ensure full conformity of that new criminal code with the Convention.

509. The Committee recommends that information be provided in the next periodic report on the implementation of the provisions of article 5 of the Convention. The State party is requested to provide detailed information on cases of complaints of racial discrimination brought before the courts and on remedies made available to victims of racism and xenophobia, in accordance with the provisions of article 6 of the Convention. Information is also requested on the cases filed by the Defensor del Pueblo, as well as with the annual report he presents to Congress. The Committee would welcome any information that the State party is able to provide concerning the effectiveness of different measures in the field of teaching, education, culture and information in

combating prejudice leading to racial discrimination. The Committee recommends that special attention should be given to the training and sensitization of law enforcement officials.

510. The Committee suggests that the State party consider making the declaration under article 14, paragraph 1, of the Convention recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation of any of the rights set forth in the Convention.

511. The Committee draws the attention of the State party to the amendment to article 8, paragraph 6, of the Convention, which was approved by the fifteenth meeting of States parties and by the General Assembly in its resolution 47/111, and encourages the State party to expedite its action formally to accept that amendment.

Australia

512. The Committee considered the ninth periodic report of Australia (CERD/C/223/Add.1) at its 1058th and 1059th meetings, on 11 and 12 August 1994 (see CERD/C/SR.1058 and 1059).

513. The report was introduced by the representative of the State party, who drew attention to the various measures his Government had taken in the context of action to combat racial discrimination since the submission of the preceding report. The policy of multiculturalism launched in 1989 had been marked by the adoption of the National Agenda for a Multicultural Australia and of strategies to eliminate the language, cultural, racial and religious barriers that still existed in the country and to ensure the equitable distribution of resources for the benefit of the entire community.

514. Major progress in the implementation of the Convention had been made for the benefit of Aboriginals and Torres Strait Islanders. An independent parliamentary committee had just submitted recommendations suggesting drastic reforms to ensure that the strategies drawn up in favour of the Aboriginals would be effective in practice. A very broad process of reconciliation had been instituted in 1991 to meet the indigenous people's aspirations and expand possibilities of dialogue between Aboriginals and the non-Aboriginal community at all levels. The post of Aboriginal and Torres Strait Social Justice Commissioner had also been established to make recommendations on the enjoyment of human rights by Aboriginals and the implementation of educational programmes on such questions.

515. The report of the Royal Commission into Aboriginal Deaths in Custody had been favourably received by the federal, state and territory governments. Some $A 400 million had been committed over five years for the implementation of the 339 recommendations contained in the report. The specific application of the report was nevertheless difficult, since over two thirds of the recommendations related to the police, prisons and administration of justice in the states and territories, where federal legislative power was limited.

516. The Aboriginal and Torres Strait Islander Commission which had just been set up consisted of 35 democratically elected regional councils and had a $A 1 billion budget. It represented a very innovative approach to autonomy in Australia. Its objectives were to ensure maximum participation by Aboriginals in the formulation and implementation of policies and programmes for their

benefit, to promote Aboriginal self-management and self-sufficiency and to take part in the economic, social and cultural development of the Aboriginals.

517. The decision handed down by the High Court in the Mabo case on 3 June 1992 had been significant in many regards. It related to the rights of the Meriam people to the lands of the Murray Islands in Torres Strait. The High Court had decided to recognize a form of native title to land and had rejected the historical proposition that Australia had been terra nullius at the time of colonial settlement. That decision was of concern primarily to Australian Aboriginals who had maintained a traditional lifestyle and ancestral links with the land where native title had not been extinguished. The Federal Government had adopted the Native Title Act in November 1993 to give effect to that decision and had set up the $A 1.5 billion National Aboriginal and Torres Strait Islander Land Fund. Problems had nevertheless arisen in connection with the implementation of the Mabo decision by some states and territories, especially the Government of Western Australia, which had tried to invalidate the Supreme Court's decision.

518. The report recently submitted by the Race Discrimination Commissioner stressed that persons from non-English-speaking backgrounds continued to have economic and social problems, particularly in respect of access to employment. Many specific measures had been suggested by the Commissioner to solve those problems. A bill on racist violence and racial defamation had also been submitted, but had not yet been discussed.

519. Members of the Committee commended the State party for its regularity in fulfilling its reporting obligations and for the seriousness with which it took its obligations under the Convention. Appreciation was expressed for the quality of the report, which had been prepared in accordance with the Committee's guidelines for the preparation of State party reports, as well as for the comprehensiveness of the additional information submitted to the Committee prior to and in the course of the discussion. They expressed their appreciation for the opportunity to engage in a frank, serious and extremely constructive dialogue with a very high-level delegation. The opportunity given to the Social Justice Commissioner (Human Rights and Equal Opportunity Commission), who was independent from the Government, to provide information in reply to questions raised and comments made by members of the Committee was highly commended and considered to be an example to be followed by other reporting States.

520. Regarding the general application of the Convention in Australia, members asked for more detailed information on the way in which the concept of Aboriginal was defined with respect to the recognition of Aboriginal land rights; on the measures taken to inform individuals of their right to submit communications under article 14 of the Convention; on the measures adopted in the light of the recommendations of the Race Discrimination Commissioner; on the way in which the reconciliation procedure was applied for the benefit of non-Aboriginal communities; on the reasons why the reconciliation process was not expected to produce results until 2001; on the total number of immigrants in Australia; on the status of Christmas Island and the Cocos (Keeling) Islands; and on the Australian policy on the granting of entry visas. More generally, members asked whether the proliferation of programmes, strategies and other measures designed to combat racial discrimination, in particular against Aboriginals, might not lead to duplication and to coordination and centralization problems; and what was the exact status of the Convention in the domestic legal order, particularly at the federal level.

521. With regard to article 2, read jointly with article 4 of the Convention, members asked for clarifications regarding the implementation of the Mabo decision and of the Native Title Act; on the contradictions between the position of the federal Government and that of the states or territories in that regard; on the envisaged procedure for compensating the majority of the Aboriginal population who would not benefit from the Mabo decision, particularly Aboriginals living in urban areas; on the recognition of Aboriginal rights to natural resources and the protection of their environment; on the Government's position regarding the ratification of ILO Convention No. 169, which stipulated that indigenous peoples had the right to compensation for damage resulting from programmes for the exploration or exploitation of their lands; on the question of mineral royalties as envisaged in the Wik case currently before the Queensland courts; and on the functions and activities of the Council for Aboriginal Reconciliation, which did not yet seem to have any clear focus.

522. Regarding article 3 of the Convention, members asked for information on the segregation in housing and education which seemed to exist in some parts of Australia, such as Toomelah and Goonawindi.

523. Members asked for clarification of Australia's reservation to article 4 (a) and in particular on the reasons for which the reservation had not been entered promptly in accordance with the terms of the reservation itself; on problems encountered in implementing article 4 of the Convention in Tasmania; on the measures taken to deal with racial violence against persons of a racial or ethnic origin different from that of the majority of Australians; on the inquiries conducted and penalties imposed following the violent action of the police against Asian students during the confrontations in June 1993; and on the conclusions of the Ombudsman following the inquiry into interracial relations in New South Wales which he had conducted at the request of the state Minister for the Maintenance of Order.

524. With regard to article 5 of the Convention, members asked for further information on the government policy to promote multiculturalism launched in 1989; on measures taken to implement the recommendations of the Royal Commission into Aboriginal Deaths in Custody and the difficulties encountered in that regard at state or territory level; on the participation of Aboriginals in the electoral process and, in general, in the conduct of public affairs; on measures taken with regard to such phenomena as infant mortality, disease, street violence, poverty and unemployment, to which Aboriginals were particularly exposed, especially those living in urban areas; on the number of Aboriginals in the criminal justice services, on prison staff, and in the police forces and social services; and on the recognition of Aboriginal customary law by the Australian courts. Additionally, clarification was requested of the treatment of refugees or asylum-seekers, particularly "boat people", who were detained for long periods of time in unsatisfactory conditions in camps while their applications were being processed.

525. Details were requested on the effects of the numerous education programmes envisaged to implement article 7 of the Convention.

526. In his reply, the representative of the State party stressed the key role played by the Human Rights and Equal Opportunity Commission in encouraging community awareness of the rights available under the Convention. The Convention itself was appended to the Racial Discrimination Act and thus formed part of Australia's domestic legislation. Monitoring of the many human rights initiatives was a considerable task and the potential for duplication did undoubtedly exist. There was, however, good cooperation between the key human

rights agencies, which helped to reduce the latter problem. On the subject of Australia's ratification of ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, indigenous people in Australia had asked for further time to consider the matter, since some believed that the Convention did not go far enough.

527. The reconciliation process was a national initiative designed to apply both in urban areas and in more remote parts of the country. It was intended to act as a focus for deeper changes which would inevitably take many years to complete. There was an accumulated backlog in the response to human needs in the fields of employment, housing and many other areas and long-term public awareness and public education campaigns would be required to overcome the false and stereotyped images portrayed by the education system and the media.

528. In reply to questions relating to article 3 of the Convention, the representative said that, although living conditions in Toomelah had been considerably improved, Toomelah was one of hundreds of Aboriginal communities in which living conditions needed to be further addressed.

529. With regard to articles 2 and 4 of the Convention, the representative stated that the enactment of the proposed national legislation on racial vilification would make it easier for Australia to withdraw its reservation on article 4 of the Convention, although other factors would have to be taken into consideration.

530. There was, as yet, no provision in Australian law for a right to compensation for loss of lands and it might be necessary to await further judicial pronouncements before a final decision was made in that regard. Many Aboriginal people were anxious to ensure compensation not only for lost land, but also for the social, economic and cultural deprivation of the Aboriginal people over many years. Although the Mabo case applied only to a rather small number of persons, the principles involved had subsequently been introduced into domestic law through the enactment of the Native Title Act 1993. While applicants for native title had to prove a traditional connection with their land, that connection need not necessarily be a physical one. Sizeable areas of land all over Australia had already been returned to indigenous ownership, even before any decisions of the National Native Land Tribunal. Sixteen per cent of the Australian mainland was under the ownership of indigenous people. Since indigenous land was not considered sovereign territory in Australia, the state or territory law prevailed in matters of national concern, such as environmental protection.

531. Referring to the possibility of states overriding the Mabo decision, the representative said that, given the importance of the Convention, the Racial Discrimination Act and the Native Title Act, such action was unlikely. Furthermore, the Federal Court and the High Court had the final say in questions of interpretation of common law and the Constitution. They could - and did - overturn decisions of state or territory judiciaries if they were inconsistent with Commonwealth law, the Constitution or judicial precedent.

532. In reply to questions concerning article 5 of the Convention, the representative stated that the Royal Commission into Aboriginal Deaths in Custody had been primarily directed towards state and territory governments and concerned matters of day-to-day administration in which the Commonwealth Government had limited capacity to enforce compliance, since issues relating to the police, prisons and criminal justice reform had traditionally been regarded as matters within the exclusive jurisdiction of state and territory governments.

533. There were regrettably no indigenous members of the federal Parliament and only one indigenous member of a state parliament. There was, however, evidence of significantly increased enrolment and participation in elections by indigenous people throughout Australia and an increasing number of indigenous members of local government councils. Furthermore, there was increasing indigenous participation in trade unions and in business, supported by the national representative bodies and actively promoted as part of the reconciliation process, and a strategy has been initiated for the recruitment of indigenous people into public sector employment at state, territory and federal levels.

534. With reference to Australia's treatment of non-English-speaking people, and in particular refugees, asylum-seekers and "boat people", the representative stated that the Government's human rights policies were based on a fierce opposition to any form of discrimination. Although Australian policy regarding African immigration had been discriminatory in the past, the Government was now proud of its non-discriminatory policy on immigration. Australia's intake of refugees and displaced persons was one of the highest in the world. During 1992 and 1993, people of more than 60 nationalities had been admitted to Australia, which testified to the Government's non-discriminatory response to the refugee problem. An intense public debate was, however, in progress concerning the acceptance of "boat people", since some sectors of the population feared that they were being given preferential treatment.

Concluding observations

535. At its 1067th meeting, on 18 August 1994, the Committee adopted the following concluding observations.

(a) Positive aspects

536. The State party is commended for its regularity in fulfilling its reporting obligations and for the seriousness with which its takes its obligations under the Convention. Appreciation is expressed for the quality of the report, which has been prepared in accordance with the Committee's guidelines for the preparation of State party reports, as well as for the comprehensiveness of the additional information submitted to the Committee prior to and in the course of the discussion.

537. Appreciation is also expressed for the opportunity to engage in a frank, serious and extremely constructive dialogue with a delegation led by the responsible minister. He was accompanied by the Social Justice Commissioner (Human Rights and Equal Opportunity Commission), himself from Australia's indigenous population and the holder of an independent post. The Commissioner was present to provide information in reply to questions raised and to mention matters on which he had his own views. Members of the Committee highly commend the composition of the delegation, describing it as an example to be followed by other reporting States.

538. Satisfaction is expressed for the numerous measures taken in Australia, since the consideration of the previous report, to improve relations between all groups and in particular the situation of Aboriginal people. The Government's efforts to establish a multicultural society in Australia, despite some opposition, is welcomed. Note is taken, in that regard, of various programmes and strategies, such as the Access and Equity Strategy, the National Agenda for a Multicultural Australia and the Community Relations Agenda, which provide a framework designed to encourage different cultural groups to share their

distinctive heritage and seek to ensure that all Australians enjoy equality of treatment and opportunity in all spheres of public life. The Council for Aboriginal Reconciliation Act 1991 is welcomed as a measure of great potential interest.

539. The broad responsibilities and powers of the Commonwealth Human Rights and Equal Opportunity Commission in the implementation of the Racial Discrimination Act of 1975 and in conducting public inquiries into human rights matters are noted with particular satisfaction. The activities of the Aboriginal and Torres Strait Islander Commission and the transfer of certain specific responsibilities to the Torres Strait Regional Authority are noted with appreciation. The noteworthy conclusions and recommendations of the Royal Commission into Aboriginal Deaths in Custody and the consequent establishment of the Aboriginal and Torres Strait Social Justice Commissioner are also welcomed.

540. The attention paid by the judiciary to the implementation of the Convention is particularly appreciated. The decisions of the High Court of Australia in Mabo v. Queensland constitute a very significant development. It is noted with satisfaction that the decision rejected the proposition that Australia was terra nullius at the time of colonial settlement and recognized the survival of native title to land where this title had not been validly extinguished. The Commonwealth Government's follow-up in its Native Title Act 1993 and the establishment of the National Aboriginal and Torres Strait Islander Land Fund are also welcomed.

541. The readiness of the Commonwealth Government to show leadership in securing a better implementation of the Convention is much appreciated. For example, it is likely to use its influence to see that police training is improved with respect to the avoidance of racial discrimination.

(b) Principal subjects of concern

542. It is noted with concern that, although the Commonwealth Government is responsible for ratifying international human rights instruments, the implementation of their provisions requires the active participation of states and territories which have almost exclusive jurisdiction over many of the matters covered by the Convention and cannot be compelled to change their laws. Programmes and strategies designed, at the federal level, to promote reconciliation and social justice and to address the problems associated with Aboriginal deaths in custody, could be jeopardized by lack of cooperation from state or territory governments. The Committee will follow with concern any relevant developments in the relations between the governments in Australia.

543. The situation of the Aboriginal and Torres Islander people remains a subject of concern, despite efforts aimed at remedying the injustices inherited from the past. Concern is expressed that Aboriginals continue to die in custody at a rate comparable to that which led to the appointment of the Royal Commission.

544. Legal proceedings for the recognition of native title and for responding to land claims have been protracted. The necessity for claimants to prove that they have maintained their connection with the land and that their title has not been extinguished can be an exigent condition. That persons who identify as Aboriginal but whose ancestors are predominantly non-Aboriginal may not qualify as Aboriginal with respect to land rights may become a further matter of concern. Only a very small percentage of the Aboriginal population will benefit under the Native Title Act.

545. Aboriginals continue to suffer disadvantage in such areas as education, employment, housing and health services. Their participation in the conduct of public affairs is disappointing. It is, once again, noted with concern that, according to various social indicators, Aboriginals are more deeply affected by social problems such as alcoholism, drug abuse, delinquency and incarceration than any other social group in the country.

546. The situation of members of other, non-English-speaking, minorities, particularly refugees or asylum-seekers, as regards enjoyment of their rights and freedoms under article 5 of the Convention is also a matter of concern. Immigrants from the African and Asian regions seem, according to non-governmental sources, not to be adequately protected against discrimination.

(c) Suggestions and recommendations

547. The Committee recommends that Australia pursue an energetic policy of recognizing Aboriginal rights and furnishing adequate compensation for the discrimination and injustice of the past. The Commonwealth Government should undertake appropriate measures to ensure a harmonious application of the provisions of the Convention at the federal and state or territory levels. The recommendations adopted by various bodies entrusted with the protection of Aboriginal rights - the Royal Commission into Aboriginal Deaths in Custody, the Human Rights and Equal Opportunities Commission, and the Aboriginal and Torres Strait Islander Commission - should be fully implemented by all those concerned, particularly state and territory governments.

548. The Committee recommends the strengthening of measures to remedy any discrimination suffered by members of non-English-speaking minorities and Aboriginals in the fields of the administration of justice, education, employment, housing and health services and to promote the participation of all in the conduct of political affairs. Law enforcement officials should receive more effective training to ensure that in the performance of their duties they respect as well as protect human dignity and maintain and uphold the human rights of all. Similarly, the State party should continue to strengthen its education and training programmes. The Committee hopes to receive more information on these matters, particularly with respect to non-English-speaking minorities, in Australia's next periodic report.

549. The Committee recommends that the State party adopt appropriate legislation with a view to withdrawing its reservation to article 4 (a) of the Convention.

550. The Committee recommends that the report submitted by the State party to the Committee and the concluding comments of the Committee be disseminated as widely as possible in Australia in order to encourage the involvement of all sectors concerned in the elimination of all forms of racial discrimination.

551. The Committee draws the attention of the State party to the amendment to article 8, paragraph 6, of the Convention, which was approved by the fifteenth meeting of States parties and by the General Assembly in its resolution 47/111, and encourages the State party to expedite its action formally to accept that amendment.

Chad

552. At its 1060th meeting, on 12 August 1994 (CERD/C/SR.1060), the Committee examined the implementation of the Convention by Chad on the basis of the previous report of the State party (CERD/C/114/Add.2) and its consideration by the Committee (CERD/C/SR.838).

553. The Committee noted that, despite the resumption of the dialogue with the State party in 1993, the fifth, sixth and seventh periodic reports of Chad that were to be presented in a single document had still not been submitted to the Committee. The Committee therefore noted that Chad had not fulfilled its obligations under article 9, paragraph 1, of the Convention.

554. The Committee was concerned about reports that tensions between ethnic groups continued in Chad, that the use of force by the authorities was frequent, that violent acts were being committed by the security forces, including members of the President's ethnic group and that the security of civilians was not assured.

555. The Committee expressed concern over reports on the impunity enjoyed by perpetrators of human rights violations and over the lack of independence of the judicial system. It also expressed concern over information that the administration was paralysed by lack of resources and corruption.

556. The members of the Committee noted with satisfaction that, according to information received, international and Chadian non-governmental organizations had permission to work in the country and that some progress had been observed in the area of freedom of expression.

Concluding observations

557. At its 1067th meeting, held on 18 August 1994, the Committee adopted the following concluding observations.

558. It is regretted that the State party has not submitted any report to the Committee since 1986, despite the resumption of the dialogue with the State party in 1993. It does, however, note the difficulties deriving from the civil war in Chad, and from the fact that there is no permanent mission of Chad to the United Nations Office at Geneva.

(a) Principal subjects of concern

559. It is noted with concern that, according to information available two years after the end of the change of government in Chad, tensions between ethnic groups persist, and violent acts and multiple violations of human rights are still being committed, inter alia by the military forces and the security units.

560. Concern is also expressed regarding information on the impunity enjoyed by perpetrators of human rights violations who, despite the Government's promises, have still not been prosecuted by the authorities.

561. The members of the Committee note with concern information received about the paralysis in the administration which affects all sectors of the public service, including the judicial sector. They express their concern over the attacks on the independence of the judicial authorities.

562. It is noted with satisfaction that international and Chadian non-governmental organizations can now work in the country and that some progress has been achieved in regard to freedom of expression.

(b) Suggestions and recommendations

563. The Committee recommends that the State party include in its next periodic report information on developments in the situation within the country, the strengthening of the rule of law in Chad, the composition of the population, the introduction of legislation to combat racial discrimination (article 4 of the Convention), the means available to individual victims of human rights violations to obtain justice and reparation (article 6 of the Convention) and the measures taken to promote education with a view to combating racial discrimination (article 7 of the Convention).

564. In the light of the above, the Committee requests the Government of Chad to expedite its overdue reports as a matter of urgency.

565. The Committee suggests that the Government of Chad avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Centre for Human Rights.

Afghanistan

566. At its 1042nd meeting, on 1 August 1994, the Committee took note of a request from the Government of Afghanistan that it postpone its consideration of the implementation of the Convention in that State, but decided to keep the matter on its agenda.

567. At its 1060th meeting, on 12 August 1994, the Committee heard from its country rapporteur and from other members about the situation in Afghanistan, in the absence of a representative of the State party. The Committee decided to defer consideration.

568. Members of the Committee noted that the State party had submitted only an initial report since it acceded to the Convention in 1983. That report had not followed the reporting guidelines and in the view of members had failed to acknowledge some of the unfavourable features of the situation then prevailing in the country.

569. Members noted the statement on Afghanistan made by the President of the Security Council on 24 January 1994 and expressed their deep concern about the tragic circumstances prevailing in Afghanistan, which include conflicts based upon descent.

Concluding observations

570. At its 1068th meeting, on 18 August 1994, the Committee adopted the following concluding observations.

571. The Committee expresses its deep concern about the tragic circumstances prevailing in Afghanistan, which include conflicts based upon descent.

572. The Committee nevertheless expresses regret that Afghanistan has not yet submitted its second and subsequent reports, due on 5 August 1986 and thereafter, and was unable to respond to the invitation to participate in the meeting and to provide relevant information. However, it notes the difficulties

arising from the continuing conflict. The Committee wishes to draw the attention of the State party to the availability of technical assistance from the Centre for Human Rights once it is ready to prepare a further report.

IV. CONSIDERATION OF COMMUNICATIONS UNDER ARTICLE 14 OF THE CONVENTION

573. Under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, individuals or groups of individuals who claim that any of their rights enumerated in the Convention have been violated by a State party and who have exhausted all available domestic remedies may submit written communications to the Committee on the Elimination of Racial Discrimination for consideration. Of the 139 States that have ratified the Convention, 20 have declared that they recognize the competence of the Committee to receive and consider communications under article 14 of the Convention. These States are Algeria, Australia, Bulgaria, Chile, Costa Rica, Cyprus, Denmark, Ecuador, France, Hungary, Iceland, Italy, the Netherlands, Norway, Peru, the Russian Federation, Senegal, Sweden, Ukraine and Uruguay. No communication can be received by the Committee if it concerns a State party to the Convention that has not recognized the competence of the Committee under article 14. The competence of the Committee to exercise the functions provided for in article 14 became effective on 3 December 1982, pursuant to article 14, paragraph 9.

574. Consideration of communications under article 14 of the Convention takes place in closed meetings (rule 88 of the Committee's rules of procedure). All documents pertaining to the work of the Committee under article 14 (submissions from the parties and other working documents of the Committee) are confidential.

575. In carrying out its work under article 14 of the Convention, the Committee may be assisted by a working group of no more than five of its members, which submits recommendations to the Committee regarding the fulfilment of the conditions of admissibility of communications (rule 87) or on the action to be taken in respect of communications that have been declared admissible (rule 95, para. 1).

576. The Committee began its work under article 14 of the Convention at its thirtieth session, in 1984. At its thirty-sixth session, in August 1988, the Committee adopted its opinion on communication No. 1/1984 (Yilmaz-Dogan v. the Netherlands). 3/ At its thirty-ninth session, on 18 March 1991, the Committee adopted its opinion on communication No. 2/1989 (Demba Talibe Diop v. France). 4/ At its forty-second session, on 16 March 1993, the Committee, acting under rule 94, paragraph 7, of its rules of procedure, declared admissible and adopted its opinion on communication No. 4/1991 (L. K. v. the Netherlands). 5/

577. Under article 14, paragraph 8, of the Convention, the Committee shall include in its annual report a summary of the communications considered by it and of the explanations and statements of the States parties concerned, together with the Committee's own suggestions and recommendations thereon. This reporting stage has not yet been reached in respect of communication No. 5/1994, which was placed before the Committee at its forty-fifth session, in August 1994, and sent to the State party concerned, under rule 92 of the rules of procedure, for information and observations on the admissibility of the communication.

578. On 15 March 1994, the Committee adopted its opinion on communication No. 3/1991 (Michel L. N. Narrainen v. Norway). The communication concerned a Norwegian citizen of Tamil origin, who had been found guilty of drug trafficking by the jury of an Oslo tribunal in 1991 and sentenced to six and a half years'

imprisonment. Before the Committee, the author claimed that racist convictions on the part of some jury members had influenced the court's decision. In particular, he claimed that one juror had openly stated, during a court recess, that individuals such as the author, who lived on taxpayers' money, should be sent back to wherever they came from. That juror was subsequently challenged but not disqualified.

579. The State party contended that no evidence and documentation had been adduced in support of the author's contention that the jurors had come from a part of Oslo known for a prevalence of racist opinions. It added that it was not uncommon for jurors to harbour negative feelings towards the defendant in a criminal case, but that could not be construed to mean that they were incapable of giving the defendant a fair trial. The State party further dismissed the author's complaints relating to the length of his pretrial detention and the quality of his legal representation as unfounded.

580. In its opinion, the Committee first observed that if members of a jury were suspected of displaying or voicing racial bias against an accused, it was incumbent upon the judicial authorities of the State party concerned to investigate the issue and to disqualify the juror, if there was a suspicion that the juror might be biased.

581. Applying that rule to the case under consideration, the Committee concluded that the allegedly inimical remarks made by one of the jurors during Mr. Narrainen's trial might be seen as an indication of racial prejudice and, in the light of article 5 (a) of the Convention, might have been regarded as sufficient to disqualify the juror in question. However, the State party's competent judicial bodies had examined the nature of the contested remarks, as well as their potential implications for the course of the trial. As it was neither the Committee's function to interpret applicable Norwegian rules of criminal procedure nor to decide whether the juror had to be disqualified on that basis, the Committee was unable to conclude, on the basis of the information before it, that a breach of the Convention had occurred.

582. Notwithstanding that conclusion, the Committee recommended to the State party that every effort should be made to prevent any form of racial bias from entering into judicial proceedings, which might result in adversely affecting the administration of justice on the basis of equality and non-discrimination.

583. For the text of the opinion on communication No. 3/1991, see annex IV to the present report.

V. CONSIDERATION OF COPIES OF PETITIONS, COPIES OF REPORTS AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES AND TO ALL OTHER TERRITORIES TO WHICH GENERAL ASSEMBLY RESOLUTION 1514 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION

584. Under article 15 of the Convention, the Committee is empowered to consider copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, transmitted to it by the competent bodies of the United Nations, and to submit to them and to the General Assembly its expressions of opinion and recommendations relating to the principles and objectives of the Convention in these Territories.

585. At its 1993 session, the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples continued to follow the work of the Committee on the Elimination of Racial Discrimination. The Special Committee also continued to monitor related developments in the Territories, having regard to the relevant provisions of article 15 of the International Convention on the Elimination of All Forms of Racial Discrimination. 6/

586. As a result of earlier decisions of the Trusteeship Council and the Special Committee, the Secretary-General transmitted to the Committee at its forty-fourth and forty-fifth sessions the documents listed in annex VII to the present report.

587. At its 1069th meeting, the Committee decided to take note of the relevant documentation and information submitted to it under article 15 of the Convention and to make the following observations:

> "The Committee once again finds it impossible to fulfil its functions under article 15, paragraph 2 (a) of the Convention, owing to the total absence of any copies of petitions as provided for therein. Furthermore, the Committee found that there was no valid information concerning legislative, judicial, administrative or other measures directly related to the principles and objectives of this Convention and, therefore, reiterates its request that it be furnished with the material expressly referred to in article 15 of the Convention so that it will be able to fulfil its functions."

VI. ACTION BY THE GENERAL ASSEMBLY AT ITS FORTY-EIGHTH SESSION

588. The Committee considered this item at its 1019th, 1025th, 1027th to 1029th and 1031st meetings, on 3 and 8 to 11 March 1994. For its consideration of this item, the Committee had before it the following documents:

(a) Reports of the Secretary-General on the effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights (A/48/508 and A/48/560);

(b) Relevant summary records of the Third Committee (A/C.3/48/SR.3-10, 25, 32, 36-39, 50 and 58);

(c) General Assembly resolutions 48/90 and 48/120 of 20 December 1993;

(d) Note by the Secretary-General on the provision of sufficient resources to ensure the effective functioning of the Committee on the Elimination of Racial Discrimination (CERD/SP/47);

(e) Note by the Secretary-General transmitting a communication from the Committee to the fifteenth meeting of States parties (CERD/SP/48);

(f) Summary records of the fifteenth meeting of States parties to the International Convention on the Elimination of Racial Discrimination;

(g) Note by the Secretariat transmitting the interim report on the study on enhancing the long-term effectiveness of the human rights treaty regime (A/CONF.157/PC/62/Add.11/Rev.1).

A. Annual report submitted by the Committee on the Elimination of Racial Discrimination under article 9, paragraph 2, of the Convention

589. In his introduction of sub-item (a) of this agenda item, the Rapporteur observed that a large number of delegations at the General Assembly had welcomed the proposed amendment to the Convention that all funding for the Committee should be provided from the regular budget of the United Nations and had urged that all States parties notify the Secretary-General of their acceptance of the proposed amendment without delay so that the Committee's meeting schedule would not be subject to further disruption. Many delegations had also emphasized the importance of the Committee's work and had noted with satisfaction that the Committee was seeking to adapt itself to the new realities in the world. In that connection, the General Assembly, in its resolution 48/90, entitled "Report of the Committee on the Elimination of Racial Discrimination", had commended the Committee for its work and welcomed the innovative procedures adopted by the Committee for reviewing the implementation of the Convention in States whose reports were overdue and for formulating concluding observations on State party reports. In the same resolution, the General Assembly had also encouraged the Committee to continue to exert its efforts to enhance its contributions in the area of prevention of racial discrimination, including early warning and urgent procedures.

590. Members welcomed the support expressed by the General Assembly for the work of the Committee, particularly with respect to its efforts to prevent racial discrimination through the new early warning and urgent procedures it had

adopted. Members discussed possible ways of improving access to information on its work, including informing States parties about ways of combating racial discrimination. In that connection, the Committee decided to amend its rules of procedure in order to make its summary records available for general distribution with as short a delay as possible. The Committee also decided that, in order to ensure accuracy in media coverage of the Committee's work, the concluding observations adopted by the Committee on the examination of State party reports would be made public on the last day of each session, beginning with the Committee's forty-fifth session.

591. Members noted that a number of delegations at the General Assembly had drawn attention to the new forms of racism emerging, whose targets were migrant workers, refugees and ethnic minorities and that several delegations had emphasized that educational programmes were particularly crucial to the fight against racism. In that regard, it was suggested that assistance in the form of manuals on the teaching of human rights and tolerance, including suggestions for core curricula, should be provided under the advisory services and technical assistance programme of the Centre for Human Rights.

B. Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights

592. In his introduction of sub-item (b) of this agenda item, the Rapporteur of the Committee pointed out that, at the General Assembly, many delegations had referred to the conclusions and recommendations contained in the interim study by the independent expert, Mr. Philip Alston (A/CONF.157/PC/62/Add.11/Rev.1, annex), and had suggested that they should be supplemented by the views of the members of the treaty bodies. In particular, many delegations had expressed support for the suggestion contained in the Vienna Declaration and Programme of Action that reports under the various instruments could be consolidated into a single comprehensive report to simplify the reporting process.

593. With regard to that suggestion, members of the Committee pointed out that the volume of any such report would be so enormous that both the State party and the body examining it would be faced with an almost insurmountable task. Establishing the legal basis for a global report would also give rise to problems, since separate conventions were involved and a State party to one might not be a State party to another. Support was expressed for cooperation, in general, with other treaty bodies with a view to developing common practices and procedural innovations. It was also felt that the Committee should draw attention to the distinctive character conferred on it by the Convention under which it had been established.

VII. SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Status of submission of reports by States parties

A. Reports received by the Committee

594. From the establishment of the Committee on the Elimination of Racial Discrimination until the closing date of its forty-fifth session (19 August 1994), a total of 1,295 reports under article 9, paragraph 1, of the Convention were due from States parties as follows: 140 initial reports, 132 second periodic reports, 129 third periodic reports, 144 fourth periodic reports, 124 fifth periodic reports, 120 sixth periodic reports, 109 seventh periodic reports, 103 eighth periodic reports, 92 ninth periodic reports, 84 tenth periodic reports, 71 eleventh periodic reports, 45 twelfth periodic reports and 22 thirteenth periodic reports.

595. By the end of the forty-fifth session, a total of 937 reports had been received by the Committee as follows: 121 initial reports, 113 second periodic reports, 111 third periodic reports, 104 fourth periodic reports, 96 fifth periodic reports, 87 sixth periodic reports, 79 seventh periodic reports, 70 eighth periodic reports, 62 ninth periodic reports, 48 tenth periodic reports, 29 eleventh periodic reports, 15 twelfth periodic reports and 2 thirteenth periodic reports.

596. In addition, 74 supplementary reports containing additional information were received from the States parties, submitted either on the initiative of the States parties concerned or at the request of the Committee following its examination of their respective initial or periodic reports under the Convention.

597. During the period under review, i.e. between the closing dates of the Committee's forty-third and forty-fifth sessions (20 August 1993 and 19 August 1994) 24 reports were received by the Committee: 1 second periodic report, 2 third periodic reports, 2 fourth periodic reports, 2 fifth periodic reports, 2 sixth periodic reports, 1 seventh periodic report, 3 eighth periodic reports, 3 ninth periodic reports, 2 tenth periodic reports, 2 eleventh periodic reports, 2 twelfth periodic reports and 2 thirteenth periodic reports. Additional information was received from one State party.

598. Information concerning all reports received during the period under review is set out in table 1.

599. The majority of the reports received during the period under review were not submitted on time or before the deadline provided for under article 9, paragraph 1, of the Convention. They were submitted after a delay ranging from a few months to several years.

Table 1. Reports received during the period under review (21 August 1993 to 14 August 1994)

State party	Type of report	Date on which the report was due	Date on which the report was submitted
Australia	Ninth report	30 October 1992	14 September 1993
Canada	Twelfth report	15 November 1993	14 July 1994
Cyprus	Eleventh report	5 January 1990	18 April 1994
	Twelfth report	5 January 1992	18 April 1994
	Thirteenth report	5 January 1994	18 April 1994
Guatemala	Second report	17 February 1986	25 May 1994
	Third report	17 February 1988	25 May 1994
	Fourth report	17 February 1990	25 May 1994
	Fifth report	17 February 1992	25 May 1994
	Sixth report	17 February 1994	25 May 1994
Iceland	Thirteenth report	5 January 1994	20 May 1994
Luxembourg	Eighth report	1 June 1993	20 June 1994
Peru	Eighth report	30 October 1986	18 July 1994
	Ninth report	30 October 1988	18 July 1994
	Tenth report	30 October 1990	18 July 1994
	Eleventh report	30 October 1992	18 July 1994
Sri Lanka	Third report	20 March 1987	2 August 1994
	Fourth report	20 March 1989	2 August 1994
	Fifth report	20 March 1991	2 August 1994
	Sixth report	20 March 1993	2 August 1994
Sudan	Additional information	31 January 1994	15 April 1994
Trinidad and Tobago	Seventh report	4 November 1986	12 July 1994
	Eighth report	4 November 1988	12 July 1994
	Ninth report	4 November 1990	12 July 1994
	Tenth report	4 November 1992	12 July 1994

B. Reports not yet received by the Committee

600. By the closing date of the forty-fifth session of the Committee, 358 reports expected from 122 States parties before that date had not yet been received. They comprised 19 initial reports, 19 second periodic reports, 18 third periodic reports, 20 fourth periodic reports, 28 fifth periodic reports, 33 sixth periodic reports, 30 seventh periodic reports, 33 eighth periodic reports, 30 ninth periodic reports, 36 tenth periodic reports, 42 eleventh periodic reports, 30 twelfth periodic reports and 20 thirteenth periodic reports. In addition, one supplementary report requested by the

Committee was not received. The relevant information on those reports is set out in table 2.

Table 2. Reports that were due before the closing date of the forty-fifth session (19 August 1994) but have not yet been received

State party	Type of report	Date on which the report was due	Number of reminders sent
Sierra Leone	Fourth report	5 January 1976	23
	Fifth report	5 January 1978	19
	Sixth report	5 January 1980	17
	Seventh report	5 January 1982	13
	Eighth report	5 January 1984	9
	Ninth report	5 January 1986	5
	Tenth report	5 January 1988	2
	Eleventh report	5 January 1990	2
	Twelfth report	5 January 1992	1
	Thirteenth report	5 January 1994	-
	Supplementary	31 March 1975	-
Swaziland	Fourth report	6 May 1976	24
	Fifth report	6 May 1978	20
	Sixth report	6 May 1980	18
	Seventh report	6 May 1982	12
	Eighth report	6 May 1984	8
	Ninth report	6 May 1986	3
	Tenth report	6 May 1988	2
	Eleventh report	6 May 1990	2
	Twelfth report	6 May 1992	1
	Thirteenth report	6 May 1994	-
Liberia	Initial report	5 December 1977	20
	Second report	5 December 1979	16
	Third report	5 December 1981	12
	Fourth report	5 December 1983	9
	Fifth report	5 December 1985	5
	Sixth report	5 December 1987	2
	Seventh report	5 December 1989	2
	Eighth report	5 December 1991	1
	Ninth report	5 December 1993	-
Guyana	Initial report	17 March 1978	20
	Second report	17 March 1980	16
	Third report	17 March 1982	12
	Fourth report	17 March 1984	9
	Fifth report	17 March 1986	5
	Sixth report	17 March 1988	2
	Seventh report	17 March 1990	2
	Eighth report	17 March 1992	1
	Ninth report	17 March 1994	-

State party	Type of report	Date on which the report was due	Number of reminders sent
Guinea	Second report	13 April 1980	16
	Third report	13 April 1982	12
	Fourth report	13 April 1984	8
	Fifth report	13 April 1986	3
	Sixth report	13 April 1988	2
	Seventh report	13 April 1990	2
	Eighth report	13 April 1992	1
	Ninth report	13 April 1994	-
Zaire	Third report	21 May 1981	14
	Fourth report	21 May 1983	10
	Fifth report	21 May 1985	6
	Sixth report	21 May 1987	3
	Seventh report	21 May 1989	2
	Eighth report	21 May 1991	1
	Ninth report	21 May 1993	-
Gambia	Second report	28 January 1982	13
	Third report	28 January 1984	9
	Fourth report	28 January 1986	5
	Fifth report	28 January 1988	2
	Sixth report	28 January 1990	2
	Seventh report	28 January 1992	1
	Eighth report	28 January 1994	-
Côte d'Ivoire	Fifth report	4 February 1982	13
	Sixth report	4 February 1984	9
	Seventh report	4 February 1986	5
	Eighth report	4 February 1988	2
	Ninth report	4 February 1990	2
	Tenth report	4 February 1992	1
	Eleventh report	4 February 1994	-
Lebanon	Sixth report	12 December 1982	11
	Seventh report	12 December 1984	7
	Eighth report	12 December 1986	4
	Ninth report	12 December 1988	2
	Tenth report	12 December 1990	1
	Eleventh report	12 December 1992	-
Gabon	Second report	30 March 1983	10
	Third report	30 March 1985	6
	Fourth report	30 March 1987	3
	Fifth report	30 March 1989	2
	Sixth report	30 March 1991	1
	Seventh report	30 March 1993	-
Togo	Sixth report	1 October 1983	9
	Seventh report	1 October 1985	5
	Eighth report	1 October 1987	2
	Ninth report	1 October 1989	2
	Tenth report	1 October 1991	1
	Eleventh report	1 October 1993	-

State party	Type of report	Date on which the report was due	Number of reminders sent
Uganda	Second report	21 December 1983	9
	Third report	21 December 1985	5
	Fourth report	21 December 1987	2
	Fifth report	21 December 1989	2
	Sixth report	21 December 1991	1
	Seventh report	21 December 1993	-
Fiji	Sixth report	11 January 1984	8
	Seventh report	11 January 1986	4
	Eighth report	11 January 1988	2
	Ninth report	11 January 1990	2
	Tenth report	11 January 1992	1
	Eleventh report	11 January 1994	-
Bahamas	Fifth report	5 August 1984	8
	Sixth report	5 August 1986	4
	Seventh report	5 August 1988	2
	Eighth report	5 August 1990	2
	Ninth report	5 August 1992	1
	Tenth report	5 August 1994	-
Somalia	Fifth report	27 September 1984	8
	Sixth report	27 September 1986	5
	Seventh report	27 September 1988	3
	Eighth report	27 September 1990	2
	Ninth report	27 September 1992	-
Cape Verde	Third report	2 November 1984	8
	Fourth report	2 November 1986	5
	Fifth report	2 November 1988	3
	Sixth report	2 November 1990	2
	Seventh report	2 November 1992	-
Lesotho	Seventh report	4 December 1984	8
	Eighth report	4 December 1986	5
	Ninth report	4 December 1988	3
	Tenth report	4 December 1990	2
	Eleventh report	4 December 1992	-
Saint Vincent and the Grenadines	Second report	9 December 1984	8
	Third report	9 December 1986	5
	Fourth report	9 December 1988	3
	Fifth report	9 December 1990	2
	Sixth report	9 December 1992	-
El Salvador	Third report	30 December 1984	8
	Fourth report	30 December 1986	5
	Fifth report	30 December 1988	3
	Sixth report	30 December 1990	2
	Seventh report	30 December 1992	-

State party	Type of report	Date on which the report was due	Number of reminders sent
Papua New Guinea	Second report	26 February 1985	8
	Third report	26 February 1987	5
	Fourth report	26 February 1989	3
	Fifth report	26 February 1991	2
	Sixth report	26 February 1993	-
Suriname	Initial report	15 March 1985	8
	Second report	15 March 1987	5
	Third report	15 March 1989	3
	Fourth report	15 March 1991	2
	Fifth report	15 March 1993	-
Solomon Islands	Second report	17 March 1985	8
	Third report	17 March 1987	5
	Fourth report	17 March 1989	3
	Fifth report	17 March 1991	2
	Sixth report	17 March 1993	-
Botswana	Sixth report	22 March 1985	8
	Seventh report	22 March 1987	5
	Eighth report	22 March 1989	3
	Ninth report	22 March 1991	2
	Tenth report	22 March 1993	-
Lao People's Democratic Republic	Sixth report	24 March 1985	7
	Seventh report	24 March 1987	4
	Eighth report	24 March 1989	3
	Ninth report	24 March 1991	1
	Tenth report	24 March 1993	-
Burkina Faso	Sixth report	18 August 1985	7
	Seventh report	18 August 1987	3
	Eighth report	18 August 1989	3
	Ninth report	18 August 1991	1
	Tenth report	18 August 1993	-
Bolivia	Eighth report	21 October 1985	6
	Ninth report	21 October 1987	3
	Tenth report	21 October 1989	3
	Eleventh report	21 October 1991	1
	Twelfth report	21 October 1993	-
Central African Republic	Eighth report	14 April 1986	6
	Ninth report	14 April 1988	4
	Tenth report	14 April 1990	4
	Eleventh report	14 April 1992	1
	Twelfth report	14 April 1994	-
Mozambique	Second report	18 May 1986	6
	Third report	18 May 1988	4
	Fourth report	18 May 1990	4
	Fifth report	18 May 1992	1
	Sixth report	18 May 1994	-

State party	Type of report	Date on which the report was due	Number of reminders sent
Jamaica	Eighth report	5 July 1986	6
	Ninth report	5 July 1988	4
	Tenth report	5 July 1990	4
	Eleventh report	5 July 1992	1
	Twelfth report	5 July 1994	-
Afghanistan	Second report	5 August 1986	6
	Third report	5 August 1988	4
	Fourth report	5 August 1990	4
	Fifth report	5 August 1992	1
	Sixth report	5 August 1994	-
Chad	Fifth report	16 September 1986	5
	Sixth report	16 September 1988	4
	Seventh report	16 September 1990	3
	Eighth report	16 September 1992	-
Cambodia	Second report	28 December 1986	5
	Third report	28 December 1988	4
	Fourth report	28 December 1990	3
	Fifth report	28 December 1992	-
Nicaragua	Fifth report	17 March 1987	5
	Sixth report	17 March 1989	4
	Seventh report	17 March 1991	3
	Eighth report	17 March 1993	-
Mauritius	Eighth report	29 June 1987	5
	Ninth report	29 June 1989	4
	Tenth report	29 June 1991	2
	Eleventh report	29 June 1993	-
United Arab Emirates	Seventh report	21 July 1987	4
	Eighth report	21 July 1989	4
	Ninth report	21 July 1991	2
	Tenth report	21 July 1993	-
Mali	Seventh report	15 August 1987	4
	Eighth report	15 August 1989	4
	Ninth report	15 August 1991	2
	Tenth report	15 August 1993	-
United Republic of Tanzania	Eighth report	26 November 1987	4
	Ninth report	26 November 1989	4
	Tenth report	26 November 1991	1
	Eleventh report	26 November 1993	-
Barbados	Eighth report	10 December 1987	4
	Ninth report	10 December 1989	4
	Tenth report	10 December 1991	1
	Eleventh report	10 December 1993	-

State party	Type of report	Date on which the report was due	Number of reminders sent
Brazil	Tenth report	5 January 1988	4
	Eleventh report	5 January 1990	4
	Twelfth report	5 January 1992	1
	Thirteenth report	5 January 1994	-
India	Tenth report	5 January 1988	4
	Eleventh report	5 January 1990	4
	Twelfth report	5 January 1992	1
	Thirteenth report	5 January 1994	-
Pakistan	Tenth report	5 January 1988	4
	Eleventh report	5 January 1990	[illegible]
	Twelfth report	5 January 1992	1
	Thirteenth report	5 January 1994	-
Panama	Tenth report	5 January 1988	4
	Eleventh report	5 January 1990	4
	Twelfth report	5 January 1992	1
	Thirteenth report	5 January 1994	-
Venezuela	Tenth report	5 January 1988	4
	Eleventh report	5 January 1990	4
	Twelfth report	5 January 1992	1
	Thirteenth report	5 January 1994	-
Nepal	Ninth report	1 March 1988	4
	Tenth report	1 March 1990	4
	Eleventh report	1 March 1992	1
	Twelfth report	1 March 1994	-
Madagascar	Tenth report	8 March 1988	4
	Eleventh report	8 March 1990	4
	Twelfth report	8 March 1992	1
	Thirteenth report	8 March 1994	-
Seychelles	Sixth report	6 April 1989	1
	Seventh report	6 April 1991	1
	Eighth report	6 April 1993	-
Ethiopia	Seventh report	25 July 1989	1
	Eighth report	25 July 1991	1
	Ninth report	25 July 1993	-
Congo	Initial report	10 August 1989	1
	Second report	10 August 1991	1
	Third report	10 August 1993	-
Antigua and Barbuda	Initial report	25 October 1989	1
	Second report	25 October 1991	1
	Third report	25 October 1993	-

State party	Type of report	Date on which the report was due	Number of reminders sent
Namibia	Fourth report	11 December 1989	1
	Fifth report	11 December 1991	1
	Sixth report	11 December 1993	-
Argentina	Eleventh report	5 January 1990	1
	Twelfth report	5 January 1992	1
	Thirteenth report	5 January 1994	-
Hungary	Eleventh report	5 January 1990	1
	Twelfth report	5 January 1992	1
	Thirteenth report	5 January 1994	-
Libyan Arab Jamahiriya	Eleventh report	5 January 1990	1
	Twelfth report	5 January 1992	1
	Thirteenth report	5 January 1994	-
Niger	Eleventh report	5 January 1990	1
	Twelfth report	5 January 1992	1
	Thirteenth report	5 January 1994	-
Philippines	Eleventh report	5 January 1990	1
	Twelfth report	5 January 1992	1
	Thirteenth report	5 January 1994	-
Yugoslavia (Serbia and Montenegro)	Eleventh report	5 January 1990	1
	Twelfth report	5 January 1992	1
	Thirteenth report	5 January 1994	-
Mauritania	Initial report	12 January 1990	1
	Second report	12 January 1992	1
	Third report	13 January 1994	-
Belarus	Eleventh report	7 May 1990	1
	Twelfth report	7 May 1992	1
	Thirteenth report	7 May 1994	-
Rwanda	Eighth report	16 May 1990	1
	Ninth report	16 May 1992	1
	Tenth report	16 May 1994	-
Dominican Republic	Fourth report	24 June 1990	1
	Fifth report	24 June 1992	1
	Sixth report	24 June 1994	-
Malta	Tenth report	26 June 1990	1
	Eleventh report	26 June 1992	1
	Twelfth report	26 June 1994	-
Cameroon	Tenth report	24 July 1990	1
	Eleventh report	24 July 1992	1
	Twelfth report	24 July 1994	-

State party	Type of report	Date on which the report was due	Number of reminders sent
Mongolia	Eleventh report	4 September 1990	-
	Twelfth report	4 September 1992	-
Burundi	Seventh report	26 November 1990	-
	Eighth report	26 November 1992	-
Denmark	Tenth report	8 January 1991	-
	Eleventh report	8 January 1993	-
Netherlands	Tenth report	9 January 1991	-
	Eleventh report	9 January 1993	-
China	Fifth report	28 January 1991	-
	Sixth report	28 January 1993	-
Saint Lucia	Initial report	14 February 1991	-
	Second report	14 February 1993	-
Iraq	Eleventh report	15 February 1991	-
	Twelfth report	15 February 1993	-
Cuba	Tenth report	16 March 1991	-
	Eleventh report	16 March 1993	-
Bahrain	Initial report	26 April 1991	-
	Second report	26 April 1993	-
Jordan	Ninth report	30 June 1991	-
	Tenth report	30 June 1993	-
Finland	Eleventh report	16 August 1991	-
	Twelfth report	16 August 1993	-
Portugal	Fifth report	23 September 1991	-
	Sixth report	23 September 1993	-
New Zealand	Tenth report	22 December 1991	-
	Eleventh report	22 December 1993	-
Bulgaria	Twelfth report	5 January 1992	-
	Thirteenth report	5 January 1994	-
Costa Rica	Twelfth report	5 January 1992	-
	Thirteenth report	5 January 1994	-
Ghana	Twelfth report	5 January 1992	-
	Thirteenth report	5 January 1994	-
Uruguay	Twelfth report	5 January 1992	-
	Thirteenth report	5 January 1994	-
Haiti	Tenth report	18 January 1992	-
	Eleventh report	18 January 1994	-

State party	Type of report	Date on which the report was due	Number of reminders sent
Israel	Seventh report	2 February 1992	-
	Eighth report	2 February 1994	-
Russian Federation	Twelfth report	5 March 1992	-
	Thirteenth report	5 March 1994	-
Mexico	Ninth report	22 March 1992	-
	Tenth report	22 March 1994	-
Syrian Arab Republic	Twelfth report	21 May 1992	-
	Thirteenth report	21 May 1994	-
Zimbabwe	Initial report	21 June 1992	-
	Second report	21 June 1994	-
Bangladesh	Seventh report	11 July 1992	-
	Eighth report	11 July 1994	-
Belgium	Ninth report	6 September 1992	-
Colombia	Sixth report	2 October 1992	-
Croatia	Initial report	8 October 1992	-
Chile	Eleventh report	20 November 1992	-
Estonia	Initial report	20 November 1992	-
Algeria	Eleventh report	15 March 1993	-
Tonga	Eleventh report	17 March 1993	-
Latvia	Initial report	14 May 1993	-
Qatar	Ninth report	16 May 1993	-
Senegal	Eleventh report	18 May 1993	-
Maldives	Fifth report	24 May 1993	-
Austria	Eleventh report	8 June 1993	-
Slovenia	Initial report	6 July 1993	-
Viet Nam	Sixth report	9 July 1993	-
Greece	Twelfth report	7 August 1993	-
Norway	Twelfth report	6 September 1993	-
Romania	Twelfth report	14 October 1993	-

State party	Type of report	Date on which the report was due	Number of reminders sent
Yemen	Eleventh report	19 November 1993	-
Czech Republic	Initial report	1 January 1994	-
Slovakia	Initial report	1 January 1994	-
Republic of Korea	Eighth report	4 January 1994	-
Ecuador	Thirteenth report	5 January 1994	-
Egypt	Thirteenth report	5 January 1994	-
Holy See	Thirteenth report	5 January 1994	-
Iran (Islamic Republic of)	Thirteenth report	5 January 1994	-
Kuwait	Thirteenth report	5 January 1994	-
Nigeria	Thirteenth report	5 January 1994	-
Poland	Thirteenth report	5 January 1994	-
Spain	Thirteenth report	5 January 1994	-
Tunisia	Thirteenth report	5 January 1994	-
Ukraine	Thirteenth report	5 January 1994	-
Morocco	Twelfth report	17 January 1994	-
Moldova	Initial report	25 February 1994	-
United Kingdom of Great Britain and Northern Ireland	Thirteenth report	6 April 1994	-
Sudan	Ninth report	20 April 1994	-
Germany	Thirteenth report	15 June 1994	-

C. Action taken by the Committee to ensure submission of reports by States parties

601. At its forty-fourth and forty-fifth sessions, the Committee reviewed the question of delays and non-submission of reports by States parties in accordance with their obligations under article 9 of the Convention.

602. At its forty-third session, the Committee, having emphasized that the delays in reporting by States parties hampered it in monitoring implementation of the Convention, decided that it would continue to proceed with the review of

the implementation of the provisions of the Convention by the States parties whose reports were excessively overdue. In accordance with a decision taken at its thirty-ninth session, the Committee agreed that this review would be based upon the last reports submitted by the State party concerned and their consideration by the Committee. In implementation of those decisions in 1993 a letter was addressed by the Chairman of the Committee to the Ministers for Foreign Affairs of seven States parties (Barbados, Mali, Mauritius, Nicaragua, Sri Lanka, United Arab Emirates and United Republic of Tanzania) informing them of the decision taken by the Committee and inviting the Governments concerned to designate a representative to participate in the consideration of their respective reports. Of those seven States parties, one (Sri Lanka) submitted a report before the closing date of the forty-fifth session and two (Nicaragua and United Republic of Tanzania) requested postponement of the review with a view to submitting the requested reports.

603. The Committee further decided to request the Secretary-General, in accordance with rule 66, paragraph 1, of the rules of procedure of the Committee, to continue sending appropriate reminders to States parties from which two or more reports were due but had not been received before the closing date of its forty-fifth session, asking them to submit their reports by 31 December 1994. The Committee agreed that the reminders to be sent by the Secretary-General should indicate that all overdue reports could be submitted in one consolidated document. (States parties whose reports are overdue are listed in table 2 above.)

604. In that connection, the Committee wished to recall once again that rule 66 of its rules of procedure provides that:

> "1. At each session, the Secretary-General shall notify the Committee of all cases of non-receipt of reports or additional information, as the case may be, provided for under article 9 of the Convention. The Committee, in such cases, may transmit to the State party concerned, through the Secretary-General, a reminder concerning the submission of the report or additional information.
>
> "2. If, even after the reminder referred to in paragraph 1 of this rule, the State party does not submit the report or additional information required under article 9 of the Convention, the Committee shall include a reference to this effect in its annual report to the General Assembly."

605. The Committee also wished to repeat once again a statement that it made at its first session and that was communicated to all States parties and to the General Assembly:

> "The Committee attaches great importance to these reports. It is unanimously of the view that, being a principal source of information, these reports provide the Committee with an essential element for discharging one of its most important responsibilities, namely, reporting to the General Assembly of the United Nations under article 9, paragraph 2, of the Convention." 7/

VIII. THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION

606. The Committee considered this item at its forty-fourth session (1031st and 1040th meetings) and at its forty-fifth session (1068th meeting).

607. For the consideration of this item, the Committee had before it the following documents:

(a) General Assembly resolution 48/91 of 20 December 1993 on the Third Decade to Combat Racism and Racial Discrimination;

(b) Note by the Secretary-General transmitting to the Commission on Human Rights the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination (E/CN.4/1994/63);

(c) Report of the Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance (E/CN.4/1994/66);

(d) Commission on Human Rights resolutions 1994/9 on the implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination and 1994/64 on measures to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance;

(e) Subcommission on Prevention of Discrimination and Protection of Minorities resolution 1993/3 on measures to combat racism and racial discrimination and the role of the Subcommission.

608. At the forty-fourth session, members of the Committee discussed a possible joint meeting between the Committee, the Subcommission on Prevention of Discrimination and Protection of Minorities and the Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance. Such a meeting had been proposed by the Subcommission in its resolution 1993/3 entitled "Measures to combat racism and racial discrimination and the role of the Subcommission". The purpose of the meeting would be to elaborate recommendations concerning comprehensive measures to be taken at the national and international levels to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

609. With respect to a joint meeting, members stressed the importance of adequate preparation so that it would be of maximum benefit to all concerned. In general, it was felt that the previous joint meeting between the Committee and the Subcommission, which took place in August 1991, had not been well prepared. One way to avoid a repetition of that experience would be to ask one of the Committee's members to meet with members of the Subcommission and to prepare a provisional document containing issues of concern to both bodies. Any joint meeting should be focused and related to issues of mutual interest. One such issue might be gross and large-scale violations of human rights and possible preventive or emergency measures. Another issue might be ways to facilitate a greater exchange of information between the two bodies, including through the creation of computerized databases.

610. At its 1040th meeting, held on 18 March 1994, the Committee decided that it would not be advisable to schedule a joint meeting with the Subcommission in 1994 in view of the heavy programme of work which was projected for the Committee's August session. The Chairman was asked to communicate this decision

to the Chairman of the Subcommission and propose that members of the bureaux of the two bodies could meet in August to make plans for a joint meeting to be held in 1995.

611. The Bureaux of the Committee and the Subcommission met together on 18 August 1994 to plan for a joint meeting of the two bodies in August 1995.

Notes

1/ Official Records of the International Convention on the Elimination of All Forms of Racial Discrimination, Fifteenth Meeting of States Parties, Decisions (CERD/SP/53).

2/ See Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 18 (A/8718), chap. IX, sect. B.

3/ Ibid., Forty-third Session, Supplement No. 18 (A/43/18), annex IV.

4/ Ibid., Forty-sixth Session, Supplement No. 18 (A/46/18), annex VIII.

5/ Ibid., Forty-eighth Session, Supplement No. 18 (A/48/18), annex IV.

6/ Ibid., Supplement No. 23 (A/48/23), Part I, para. 99.

7/ Ibid., Twenty-fifth Session, Supplement No. 27 (A/8027), annex III, sect. A.

ANNEX I

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, (139) as at 19 August 1994

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Afghanistan	6 July 1983 a/	5 August 1983
Albania	11 May 1994 a/	10 June 1994
Algeria	14 February 1972	15 March 1972
Antigua and Barbuda	25 October 1988 b/	25 October 1988 b/
Argentina	2 October 1968	4 January 1969
Armenia	23 June 1993 a/	23 July 1993
Australia	30 September 1975	30 October 1975
Austria	9 May 1972	8 June 1972
Bahamas	5 August 1975 b/	5 August 1975 b/
Bahrain	27 March 1990 a/	26 April 1990
Bangladesh	11 June 1979 a/	11 July 1979
Barbados	8 November 1972 a/	8 December 1972
Belarus	8 April 1969	8 May 1969
Belgium	7 August 1975	6 September 1975
Bolivia	22 September 1970	22 October 1970
Bosnia and Herzegovina	16 July 1993 b/	16 July 1993 b/
Botswana	20 February 1974 a/	22 March 1974
Brazil	27 March 1968	4 January 1969
Bulgaria	8 August 1966	4 January 1969
Burkina Faso	18 July 1974 a/	17 August 1974
Burundi	27 October 1977	26 November 1977
Cambodia	28 November 1983	28 December 1983
Cameroon	24 June 1971	24 July 1971
Canada	14 October 1970	15 November 1970
Cape Verde	3 October 1979 a/	2 November 1979
Central African Republic	16 March 1971	15 April 1971
Chad	17 August 1977 a/	16 September 1977
Chile	20 October 1971	19 November 1971
China	29 December 1981 a/	28 January 1982
Colombia	2 September 1981	2 October 1981
Congo	11 July 1988 a/	10 August 1988

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Costa Rica	16 January 1967	4 January 1969
Côte d'Ivoire	4 January 1973 a/	3 February 1973
Croatia	12 October 1992 b/	8 October 1991 b/
Cuba	15 February 1972	16 March 1972
Cyprus	21 April 1967	4 January 1969
Czech Republic	22 February 1993 b/	1 January 1993 b/
Denmark	9 December 1971	8 January 1972
Dominican Republic	25 May 1983 a/	24 June 1983
Ecuador	22 September 1966 a/	4 January 1969
Egypt	1 May 1967	4 January 1969
El Salvador	30 November 1979 a/	30 December 1979
Estonia	21 October 1991 a/	20 November 1991
Ethiopia	23 June 1976 a/	23 July 1976
Fiji	11 January 1973 b/	11 January 1973 b/
Finland	14 July 1970	13 August 1970
France	28 July 1971 a/	27 August 1971
Gabon	29 February 1980	30 March 1980
Gambia	29 December 1978 a/	28 January 1979
Germany	16 May 1969	15 June 1969
Ghana	8 September 1966	4 January 1969
Greece	18 June 1970	18 July 1970
Guatemala	18 January 1983	17 February 1983
Guinea	14 March 1977	13 April 1977
Guyana	15 February 1977	17 March 1977
Haiti	19 December 1972	18 January 1973
Holy See	1 May 1969	31 May 1969
Hungary	1 May 1967	4 January 1969
Iceland	13 March 1967	4 January 1969
India	3 December 1968	4 January 1969
Iran (Islamic Republic of)	29 August 1968	4 January 1969
Iraq	14 January 1970	13 February 1970
Israel	3 January 1979	2 February 1979
Italy	5 January 1976	4 February 1976
Jamaica	4 June 1971	4 July 1971
Jordan	30 May 1974 a/	29 June 1974
Kuwait	15 October 1968 a/	4 January 1969

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Lao People's Democratic Republic	22 February 1974 a/	24 March 1974
Latvia	14 April 1992 a/	14 May 1992
Lebanon	12 November 1971 a/	12 December 1971
Lesotho	4 November 1971 a/	4 December 1971
Liberia	5 November 1976 a/	5 December 1976
Libyan Arab Jamahiriya	3 July 1968 a/	4 January 1969
Luxembourg	1 May 1978	31 May 1978
Madagascar	7 February 1969	9 March 1969
Maldives	24 April 1984 a/	24 May 1984
Mali	16 July 1974 a/	15 August 1974
Malta	27 May 1971	26 June 1971
Mauritania	13 December 1988	12 January 1989
Mauritius	30 May 1972 a/	29 June 1972
Mexico	20 February 1975	22 March 1975
Mongolia	6 August 1969	5 September 1969
Morocco	18 December 1970	17 January 1971
Mozambique	18 April 1983 a/	18 May 1983
Namibia	11 November 1982 a/	11 December 1982
Nepal	30 January 1971 a/	1 March 1971
Netherlands	10 December 1971	9 January 1972
New Zealand	22 November 1972	22 December 1972
Nicaragua	15 February 1978 a/	17 March 1978
Niger	27 April 1967	4 January 1969
Nigeria	16 October 1967 a/	4 January 1969
Norway	6 August 1970	5 September 1970
Pakistan	21 September 1966	4 January 1969
Panama	16 August 1967	4 January 1969
Papua New Guinea	27 January 1982 a/	26 February 1982
Peru	29 September 1971	29 October 1971
Philippines	15 September 1967	4 January 1969
Poland	5 December 1968	4 January 1969
Portugal	24 August 1982 a/	23 September 1982
Qatar	22 July 1976 a/	21 August 1976
Republic of Korea	5 December 1978 a/	4 January 1979
Republic of Moldova	26 January 1993 a/	25 February 1993
Romania	15 September 1970 a/	15 October 1970

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Russian Federation	4 February 1969	6 March 1969
Rwanda	16 April 1975 a/	16 May 1975
Saint Lucia	14 February 1990 b/	14 February 1990 b/
Saint Vincent and the Grenadines	9 November 1981 a/	9 December 1981
Senegal	19 April 1972	19 May 1972
Seychelles	7 March 1978 a/	6 April 1978
Sierra Leone	2 August 1967	4 January 1969
Slovakia	28 May 1993 b/	28 May 1993 b/
Slovenia	6 July 1992 b/	6 July 1992
Solomon Islands	17 March 1982 b/	17 March 1982 b/
Somalia	26 August 1975	25 September 1975
Spain	13 September 1968 a/	4 January 1969
Sri Lanka	18 February 1982 a/	20 March 1982
Sudan	21 March 1977 a/	20 April 1977
Suriname	15 March 1984 b/	15 March 1984 b/
Swaziland	7 April 1969 a/	7 May 1969
Sweden	6 December 1971	5 January 1972
Syrian Arab Republic	21 April 1969 a/	21 May 1969
The Former Yugoslav Republic of Macedonia	18 January 1994 b/	17 September 1991 b/
Togo	1 September 1972 a/	1 October 1972
Tonga	16 February 1972 a/	17 March 1972
Trinidad and Tobago	4 October 1973	3 November 1973
Tunisia	13 January 1967	4 January 1969
Uganda	21 November 1980 a/	21 December 1980
Ukraine	7 March 1969	6 April 1969
United Arab Emirates	20 June 1974 a/	20 July 1974
United Kingdom of Great Britain and Northern Ireland	7 March 1969	6 April 1969
United Republic of Tanzania	27 October 1972 a/	26 November 1972
Uruguay	30 August 1968	4 January 1969
Venezuela	10 October 1967	4 January 1969
Viet Nam	9 June 1982 a/	9 July 1982
Yemen	18 October 1972 a/	17 November 1972
Yugoslavia	2 October 1967	4 January 1969
Zaire	21 April 1976 a/	21 May 1976

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Zambia	4 February 1972	5 March 1972
Zimbabwe	13 May 1991 a/	12 June 1991

B. States parties that have made the declaration under article 14, paragraph 1, of the Convention (20)

State party	Date of deposit of the declaration	Effective date
Algeria	12 September 1989	12 September 1989
Australia	28 January 1993	28 January 1993
Bulgaria	12 May 1993	12 May 1993
Chile	18 May 1994	18 May 1994
Costa Rica	8 January 1974	8 January 1974
Cyprus	30 December 1993	30 December 1993
Denmark	11 October 1985	11 October 1985
Ecuador	18 March 1977	18 March 1977
France	16 August 1982	16 August 1982
Hungary	13 September 1990	13 September 1990
Iceland	10 August 1981	10 August 1981
Italy	5 May 1978	5 May 1978
Netherlands	10 December 1971	9 January 1972
Norway	23 January 1976	23 January 1976
Peru	27 November 1984	27 November 1984
Russian Federation	1 October 1991	1 October 1991
Senegal	3 December 1982	3 December 1982
Sweden	6 December 1971	5 January 1972
Ukraine	28 July 1992	28 July 1992
Uruguay	11 September 1972	11 September 1972

Notes

a/ Accession.

b/ Date of receipt of notification of succession.

ANNEX II

Agendas of the forty-fourth and forty-fifth sessions

A. Forty-fourth session

1. Opening of the session by the representative of the Secretary-General.

2. Solemn declaration by the newly elected members of the Committee under rule 14 of the rules of procedure.

3. Election of officers.

4. Adoption of the agenda.

5. Action by the General Assembly at its forty-eighth session:

   (a) Annual report submitted by the Committee on the Elimination of Racial Discrimination under article 9, paragraph 2, of the Convention (General Assembly resolution 48/90);

   (b) Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights (General Assembly resolution 48/120).

6. Submission of reports by States parties under article 9, paragraph 1, of the Convention.

7. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention.

8. Prevention of racial discrimination, including early warning and urgent procedures.

9. Consideration of communications under article 14 of the Convention.

10. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention.

11. Third Decade to Combat Racism and Racial Discrimination.

B. Forty-fifth session

1. Adoption of the agenda.

2. Organizational and other matters.

3. Prevention of racial discrimination, including early warning and urgent procedures.

4. Submission of reports by States parties under article 9, paragraph 1, of the Convention.

5. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention.

6. Action by the General Assembly at its forty-eighth session: Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights (General Assembly resolution 48/120).

7. Consideration of communications under article 14 of the Convention.

8. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention.

9. Third Decade to Combat Racism and Racial Discrimination.

10. Annual report of the Committee to the General Assembly.

ANNEX III

Decisions and general recommendations adopted by the Committee at its forty-fourth and forty-fifth sessions

A. Decisions

Decision 1 (44). Urgent report requested from Israel

1. The Committee expresses its shock at the appalling massacre committed by Israeli settlers against Palestinian worshippers in the Abraham mosque at Hebron on 25 February 1994.

2. In accordance with article 9, paragraph 1 (b), of the International Convention on the Elimination of All Forms of Racial Discrimination and with reference, in particular, to article 5 (b) of the Convention, the Committee requests the Government of Israel to send it an urgent report, no later than 30 June 1994, on measures taken to guarantee the safety and protection of the Palestinian civilians in the occupied Palestinian territory and to bring to an end the illegal action of Israeli settlers and to disarm them.

1023rd meeting
7 March 1994

Decision 1 (45). The human rights situation in Rwanda

The Committee on the Elimination of Racial Discrimination,

Deeply concerned and gravely alarmed by the tragic loss of life of genocidal dimensions in Rwanda, a contracting party to the International Convention on the Elimination of All Forms of Racial Discrimination,

Profoundly regretting that the international community was so unforgivably late in its effort to prevent the human tragedy and genocide occurring in Rwanda,

Noting, however, with appreciation the current efforts of the United Nations system and others to provide humanitarian relief and prevent further loss of life,

Recalling its general recommendation XVIII (44) on the establishment of an international tribunal to prosecute crimes against humanity,

1. Calls upon the United Nations to take all measures required to ensure that adequate humanitarian assistance effectively and urgently reaches the Rwandese population;

2. Urges the rapid deployment of United Nations forces without further delay in order to ensure the protection of the life and human rights of all persons regardless of ethnic or religious background, including the right of all refugees and displaced persons to return to their homes under conditions of safety;

3. Expresses its readiness to cooperate, within the domain of its competence, in the coordinated effort of the United Nations and regional organizations for peace-building and State reconstruction so that gross and massive manifestations of racial discrimination and ethnic conflict will not recur.

1045th meeting
3 August 1994

Decision 2 (45). The situation in Burundi

The Committee on the Elimination of Racial Discrimination,

Deeply concerned at the massive violations of human rights and acts of racial discrimination occurring in Burundi, a State party to the International Convention on the Elimination of All Forms of Racial Discrimination, which may lead to further deterioration of the current critical situation with genocidal dimensions,

Recalling the measures and procedures outlined in its working paper on the prevention of racial discrimination, including early warning and urgent procedures, [a]

Regretting the adverse effects of local mass media reports that foster racial hatred and violence,

Expressing its appreciation for the positive role played by several non-governmental organizations in monitoring developments and undertaking the "International Inquiry into Human Rights Violations in Burundi since 21 October 1993",

Concerned at the recurring large-scale ethnic violence in the area and emphasizing the need for the investigation and prosecution of the perpetrators as a means to restore confidence in the rule of law, thus facilitating the return of the refugees and displaced persons,

Affirming that the victims and their families should be compensated in accordance with article 6 of the Convention,

Confirming the conclusions and recommendations it adopted on Burundi at its forty-fourth session,

Stressing the need for reconciliation, rehabilitation and reconstruction in the interests of the whole population of Burundi,

1. Recommends that the Secretary-General and competent United Nations organs, such as the Security Council, consider urgent measures in cooperation with the Organization of African Unity, with a view to avoiding a new human tragedy in Burundi;

2. Welcomes the establishment by the United Nations High Commissioner for Human Rights of an office of the Centre for Human Rights at Bujumbura;

3. Supports the technical assistance programme for Burundi and invites Governments of States parties to contribute substantially for the success of this programme;

4. Expresses its readiness to cooperate with the United Nations High Commissioner for Human Rights in the fields of its competence, especially concerning legislative, administrative and judicial reform and the training of government officials and magistrates, and requests him to inform the Committee of relevant developments and of the results of his efforts.

1063rd meeting
16 August 1994

Decision 3 (45). Racist acts of terrorism

1. The Committee expresses its grave concern at terrorist acts occurring in a number of countries around the world victimizing certain racial, ethnic or national groups.

2. The Committee condemns, in particular, the barbarous terrorist attacks against a Jewish organization that took place in Buenos Aires on 18 July and in London on 26 and 27 July 1994 and resulted in about 100 deaths and numerous injuries.

3. The Committee condemns all forms of terrorism and stresses the necessity of strengthening international cooperation in order to adopt effective measures with a view to preventing and combating racist terrorist attacks against the international community.

4. In the light of the above, the Committee invites the Governments of Argentina and the United Kingdom to expedite their periodic reports and provide pertinent information on measures they have taken in fulfilment of the Convention.

1064th meeting
16 August 1994

B. General recommendations

General recommendation XVIII (44) on the establishment of an international tribunal to prosecute crimes against humanity

The Committee on the Elimination of Racial Discrimination,

Alarmed at the increasing number of racially and ethnically motivated massacres and atrocities occurring in different regions of the world,

Convinced that the impunity of the perpetrators is a major factor contributing to the occurrence and recurrence of these crimes,

Convinced of the need to establish, as quickly as possible, an international tribunal with general jurisdiction to prosecute genocide, crimes against humanity and grave breaches of the Geneva Conventions of 1949 and the Additional Protocols of 1977 thereto, Taking into account the work already done on this question by the International Law Commission and the encouragement given in this regard by the General Assembly in its resolution 48/31 of 9 December 1993,

Also taking into account Security Council resolution 827 (1993) of 25 May 1993 establishing an international tribunal for the purpose of prosecuting persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia,

1. Considers that an international tribunal with general jurisdiction should be established urgently to prosecute genocide, crimes against humanity, including murder, extermination, enslavement, deportation, imprisonment, torture, rape, persecutions on political, racial and religious grounds and other inhumane acts directed against any civilian population, and grave breaches of the Geneva Conventions of 1949 and the Additional Protocols of 1977 thereto;

2. Urges the Secretary-General to bring the present recommendation to the attention of the competent organs and bodies of the United Nations, including the Security Council;

3. Requests the United Nations High Commissioner for Human Rights to ensure that all relevant information pertaining to the crimes referred to in paragraph 1 above is systematically collected by the Centre for Human Rights of the Secretariat so that it can be readily available to the international tribunal as soon as it is established.

1039th meeting
17 March 1994

Notes

a/ Official Records of the General Assembly, Forty-eighth Session, Supplement No. 18 (A/48/18), annex III.

ANNEX IV

Opinion of the Committee on the Elimination of Racial Discrimination

Communication No. 3/1991, NARRAINEN v. NORWAY

(Opinion adopted on 15 March 1994 at the forty-fourth session)

Submitted by: Michel L. N. Narrainen (represented by counsel)

State party concerned: Norway

Date of communication: 15 August 1991 (date of initial letter)

The Committee on the Elimination of Racial Discrimination, established under article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Meeting on 15 March 1994,

Having concluded its consideration of communication No. 3/1991, submitted to the Committee by Michel L. N. Narrainen under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Having taken into consideration all written information made available to it on behalf of Michel L. N. Narrainen and by the State party,

Bearing in mind rule 95 of its rules of procedure requiring it to formulate its opinion on the communication before it,

Adopts the following opinion:

OPINION

1. The author of the communication (initial submission dated 15 August 1991) is Michel L. N. Narrainen, a Norwegian citizen born in 1942, currently detained in a penitentiary in Oslo. He claims to be a victim of violations by Norway of his rights under the International Convention on the Elimination of All Forms of Racial Discrimination, but does not invoke specific provisions of the Convention.

The facts as found by the Committee

2.1 The author is of Tamil origin and was born in Mauritius; in 1972, he was naturalized and became a Norwegian citizen. On 25 January 1990, he was arrested in connection with a drug-related offence. On 8 February 1991, before the Eidsivating High Court (Court of Appeal - "Lagmannsretten"), a jury of 10 found him guilty of offences against section 162 of the Criminal Code (drug trafficking), and the author was sentenced to six and a half years' imprisonment. The author appealed to the Supreme Court, but leave to appeal was denied in early March 1991. On 17 February 1992, the author filed a petition for reopening of the case. By order of 8 July 1992, the Court of Appeal refused the request. The author again appealed the order to the Supreme Court which, on 24 September 1992, ruled that the case was not to be reopened.

2.2 The author contends that there was no case against him, except for the evidence given by another individual, S. B., already convicted of drug-related offences, who allegedly had been promised a reduction of his sentence in exchange for providing incriminating evidence against the author. In court, S. B. withdrew these allegations. In the same context, the author complains about the allegedly "racist" attitude of the investigating police officer, S. A., who reportedly made it clear that he "wished that people like me had never set foot in his country" (author's quote).

2.3 The author contends that under the terms of the initial indictment, he was accused of having travelled to the Netherlands in the early summer of 1989 to buy amphetamines. When he was able to produce evidence that, at the time in question, he was in Mauritius, the initial indictment allegedly was changed in court, after his own legal representative had contacted the prosecution and asked for the indictment to be changed. The author adds that it was impossible for him to have had any contacts with S. B. or his friends prior to or during the trial.

2.4 The author further contends that two jurors in the Court of Appeal were biased against him and that they openly stated that individuals such as the author, who lived on taxpayers' money, should be sent back to where they had come from. The remarks allegedly included slurs on the colour of the author's skin. Yet these jurors, although challenged, were not disqualified by the Court and participated in the deliberations of the verdict.

2.5 The State party gives the following version of the incident referred to by the author (see para. 2.4):

> "The Court record shows that during a break in the court proceedings, a law student, Ms. S. R. H., overheard a private conversation between two members of the jury, Ms. A. M. J. and Ms. S. M. M. This conversation was referred to defence counsel, who requested that one of the jurors be dismissed. The court called the law student and two jurors to testify. (They) agreed on the facts: Ms. J. had expressed dismay at the defendant receiving NKr 9,000 a month without having to work for it, and had also said that he ought to be sent back to where he came from. Ms. M. had said that the purpose of a case like this was to get more information about the drug trafficking. The law student, Ms. H., had at this point entered the conversation, saying that the purpose of a case like this was to determine whether the defendant was guilty. According to the three witnesses, the question of guilt had otherwise not been mentioned by any of them.
>
> "Defence counsel requested that Ms. J. be dismissed from the jury because, according to section 108 of the Courts' Act, a juror could be disqualified if there are circumstances ... apt to impair confidence in his or her impartiality. The Prosecutor claimed that nothing had been said that could influence the members of the jury, and that everyone was entitled to have opinions. Discussing private opinions during a break (was) no ground for disqualification, and the case itself had not been discussed by the three persons.
>
> "The Court unanimously decided that Ms. J. should not be disqualified because she had not discussed the question of guilt in the present case, and the views she had expressed were not uncommon in Norwegian society."

The complaint

3.1 The author claims that racist considerations played a significant part in his conviction, as the evidence against him would not have supported a guilty verdict. He adds that he could not have expected to obtain a fair and impartial trial, as "all members of the jury came from a certain part of Oslo where racism is at its peak". He asserts that this situation violated his rights under the International Convention on the Elimination of All Forms of Racial Discrimination.

3.2 The author claims that other factors should be taken into consideration in assessing whether he was the victim of racial discrimination. In this context, he mentions the amount of time spent in custody prior to the trial (381 days), out of which a total of nine months were allegedly spent in isolation, and the quality of his legal representation: thus, although he was assigned legal counsel free of charge, his representative "was more of a prosecutor than a lawyer of the defence." Finally, the author considers that a previous drug-related conviction, in 1983, was disproportionably and unreasonably used as character evidence against him during the trial in 1991.

The State party's information and observations and the author's comments

4.1 The State party considers that the communication should be declared inadmissible as manifestly ill-founded, "in accordance with the established practice in similar international human rights monitoring bodies".

4.2 As to the author's claim that he was denied his right to equal treatment before the courts because the jurors were selected from a part of Oslo known for a prevalence of racist opinions, the State party notes that no documentation has been adduced in support of this contention. Author's counsel only requested that one juror be disqualified; for the rest of the jurors, it is submitted that the matter should have been raised in court, and domestic remedies cannot be deemed exhausted in their respect.

4.3 After explaining the operation of section 108 of the Courts' Act (governing the disqualification of jurors), the State party points out that it is not uncommon for jurors to have negative feelings towards the defendant in a criminal case, but that this does not imply that they are incapable of giving the defendant a fair hearing. In the case in question, the views expressed by the jurors were of a general nature, and the court's decision not to disqualify the juror was unanimous.

4.4 As to the author's claim of unfairly expeditious dismissal of his appeal to the Supreme Court, the State party notes that under section 335, subsection 2, of the Code of Criminal Procedure, no appeal may be filed with the Supreme Court if it merely concerns the evaluation of evidence in the case. In the author's case, the appeal was based on two grounds: the issue of the jury's impartiality (as a procedural error) and the severity of the prison term imposed on the author. The State party notes that under section 349 of the Code of Criminal Procedure, leave to appeal should not be granted if the Appeals Board is unanimous that an appeal would not succeed. Under section 360, procedural errors shall only be taken into consideration if they are deemed to have affected the substance of the judgement. In the author's case, the issue of the length of the prison term was considered, but as the answer to whether the Supreme Court should hear the appeal was negative, it was deemed unlikely that the sentence would be reduced. Concluding on this issue, the State party insists that there is no indication that the author was not given the same opportunities to defend his case before the courts as other individuals, in connection both with the appeal and the request for a reopening of the case, regardless of race, colour of skin, ethnic origin, etc.

4.5 As to the length of the pretrial detention, the State party explains that a little over one year of pretrial custody is not unusual in cases involving drug-related offences. According to the State party, the delay of nine months from arrest to the dispatch of the indictment to the Court of Appeal was partly attributable to the author himself, since he changed his lawyer several times while in custody, which in turn delayed the preparations for the main hearing. The State party submits that nothing indicates that the author was kept in custody longer than other suspects merely because of his origin; this part of the complaint therefore is also said to be inadmissible as manifestly ill-founded.

4.6 Finally, the State party dismisses as manifestly ill-founded the author's complaint about the quality of his legal representation. Under section 107 of the Code of Criminal Procedure, a court-appointed lawyer is remunerated by the State; the author had the opportunity to choose his own counsel throughout the judicial proceedings, and it cannot be said that he was subjected to racial discrimination in this respect.

5.1 In his comments, the author challenges the State party's submission on various procedural and factual grounds. He claims that the State party's version of the judicial proceedings is one-sided, because it is adapted from the court book, which according to him reveals little of substance. He further asserts that in a letter to the Registry of the Supreme Court, the prosecutor himself admitted that the only prosecution witness against Mr. Narrainen acknowledged in court to have been pressed by the investigating officer to make a false and incriminating statement. As this virtually destroyed the probative value of the prosecution's case, the author concludes that he was convicted on the basis of racist ideas and serious errors committed by the investigating authorities.

5.2 The author reiterates that several factors in his case, including the gathering and the evaluation of evidence, the omission of important statements in the court book, the absence of serious preparation of his defence by the court-appointed lawyers, the handling of his appeal, all underline that he was denied a fair and impartial hearing, and that his conviction was based on racist considerations.

The Committee's admissibility decision

6.1 During its forty-second session, in March 1993, the Committee examined the admissibility of the case. It duly considered the State party's contention that the author's complaint was inadmissible as his allegations were either unsubstantiated or unfounded but concluded that the communication satisfied the conditions for admissibility laid down in rule 91 of the Committee's rules of procedure.

6.2 On 16 March 1993, the Committee therefore declared the communication admissible in so far as it might raise issues under article 5 (a) of the Convention.

The State party's observations on the merits and counsel's comments

7.1 The State party dismisses as incorrect the author's allegation that the members of the jury in his trial came from those parts of Oslo where racism is rampant and that they had neo-Nazi affiliations. It notes that the list of jurors in the case was drawn up in accordance with chapter 5 of the Courts Act, that neither prosecutor nor counsel for the defence objected to the way the list was drawn up, and that counsel challenged two jurors whose names appeared on the initial list. Six of the jurors came from areas outside Oslo, and four from different parts of Oslo. The State party notes that no part of Oslo can be described as particularly racist, and that neither the courts nor the Government have any knowledge about the affiliation of jurors with political parties. However, the procedure for jury selection makes it unlikely that jurors from fringe parties will be chosen, as jurors are drawn by lot from lists that are provided by municipal politicians.

7.2 As to the impartiality of the jurors, the State party reiterates its earlier observation (see para. 2.5 above). It adds that the person who had made the inimical remarks during court recess, Ms. J., is a salaried worker who, in 1990, earned less income than the author received in terms of social benefits during the same year. In these circumstances, the State party submits, the rather general remarks of Ms. J. were "a not very surprising reaction to a matter that must have seemed unjust to her."

7.3 The State party recalls that the issue of whether the fact that the remark was made meant that Mr. Narrainen did not receive a fair trial was examined in detail by the Interlocutory Appeals Committee of the Supreme Court since, under section 360, paragraph 2 lit. 3, of the Norwegian Code of Criminal Procedure, a judgement is declared null and void by the Supreme court if it is found that one of the jurors was disqualified. According to the State party, the fact that the Interlocutory Appeals Committee denied leave to appeal to the Supreme Court implies that the Board considered it obvious that there were no circumstances in the case likely to impair confidence in the impartiality of Ms. J. It is noted that in deciding whether leave to appeal to the Supreme Court shall be granted or not, the Interlocutory Appeals Committee also relies on international instruments such as the International Convention on the Elimination of All Forms of Racial Discrimination as relevant sources of law.

7.4 In respect of the assessment of evidence in the case, the State party explains the rationale for trying cases involving crimes punishable with imprisonment of six years or more at first instance before the High Court. In such cases, the court is constituted of 3 professional judges and a jury of 10; the jury decides on the question of guilt. A judgement of the High Court may be appealed to the Supreme Court, but errors in the evaluation of evidence in relation to the question of guilt are not permissible grounds of appeal (sect. 335, para. 2, of the Code of Criminal Procedure). The State party explains that "it is important that serous criminal cases are dealt with in a reassuring manner from the beginning. This is why such cases are dealt with in the High Court, with a jury, at first instance. The jury decides on the guilt. This is common practice, based on the principle that a defendant shall be judged by equals ... This principle would be of little value if the jury's assessment of evidence ... could be overruled by the professional judges in the Supreme Court".

7.5 As to the admissibility of the evidence placed before the High Court and the alleged pressure exerted by the police on witness S. B. to make a false statement, the State party recalls that Norwegian courts assess evidence freely.

That Mr. Narrainen was convicted indicates that, in the case, the jurors did not believe S. B. when he retracted his earlier statement and claimed that the author was innocent. In this context, the State party submits that the most likely explanation for S. B.'s attitude in court was his fear of reprisals if he upheld his earlier statement; it notes that S. B., himself a detainee at the prison of Bergen, was placed under pressure to withdraw his initial statement at around the time the author himself arrived at the prison, and that he was afraid of reprisals. Still in the same context, the State party dismisses as incorrect or misleading parts of the author's statements reproduced in paragraph 5.1 above.

7.6 The State rejects as incorrect the author's claim that S. B. was promised a reduced sentence in exchange for providing incriminating evidence against the author, as neither the police nor the public prosecutor are competent to engage in any plea bargaining with the accused. The State party similarly rejects as unfounded the author's claim that S. B. was "promised a cosy place to serve his sentence" in exchange for information on the author: in fact, S. B. was confined to the main prison for the Rogaland area, where, according to his own statement, he was subjected to considerable pressure from other prisoners, including the author.

7.7 Concerning the use of a previous conviction as evidence against Mr. Narrainen, the State party submits that it is normal under Norwegian criminal law to admit such evidence, and that there is absolutely no evidence that the admission of the evidence had any connection with the author's ethnic origin.

7.8 With regard to the alleged illegal change in the author's indictment, the State party refers to section 38, paragraph 2, of the Code of Criminal Procedure, which stipulates that "with regard to the penal provision applicable to the matter, the Court is not bound by the indictment ... The same applies with regard to punishment and other sanctions applicable." A change in the determination of which provision is applicable to the same offence can also be made by the prosecutor's office (sect. 254, para. 3, of the Code of Criminal Procedure); this is what occurred in the author's case. The State party explains that the reason why the applicable provision may be changed, after indictment but before start of the trial, is that the defendant is not being charged with a new offence; it is simply a question of choosing the appropriate provision applicable to the same facts.

7.9 Finally, as to the duration of Mr. Narrainen's pretrial detention, the State party reiterates its comments detailed in paragraph 4.5 above. As to the quality of his counsel, it recalls that since the author "was imprisoned in Oslo, he had the opportunity to choose between many highly qualified lawyers". It explains that when the court has appointed a legal aid representative, it will not appoint another one unless asked to do so by the defendant; therefore, any lawyer assisting Mr. Narrainen must have been chosen pursuant to his requests. The State party concludes that there is no reason to believe that Mr. Narrainen did not receive the same legal services as any other accused. Rather, he was given every opportunity to request a new representative every time he was dissatisfied with his previous one, thereby using the "safeguard provisions" of the criminal procedure system to the full.

8.1 In his comments on the State party's submission, counsel provides detailed information about the composition of juries under the criminal justice system. According to recent statistics, 43 per cent of foreign nationals residing in Norway live in Oslo or neighbouring boroughs. Of the foreign-born Norwegian citizens some 60,516, of whom half come from Latin America, Asia and Africa, lived in Oslo. Between 10 and 15 percent of all persons living in Oslo have cultural and ethnic backgrounds that differ from the rest of the population.

8.2 Counsel observes that few if any foreigners or foreign-born Norwegians figure in lists from which jury members are selected. Eidsivating High Court was unwilling to provide him with a copy of the jury lists from the Oslo area, on the ground that the lists, comprising some 4,000 names, contain private data that should not be made public. According to counsel, Norwegian court practice clearly shows that Norwegian juries are all white - in interviews with prosecutors, lawyers and convicted prisoners, no one remembered ever having met a coloured member of a jury. This information is corroborated by a newspaper report, dated 24 February 1994, which screens the lists of jurors provided by the city of Oslo. It states that out of 2,306 individuals, no more than 25 have a foreign background, and most of the foreign names are English, German or American ones. It further notes that according to official statistics, 38,000 foreign nationals aged 20 or more live in Oslo; another 67,000 persons were either born abroad or have foreign parents.

8.3 Counsel notes that the reason for the lack of equal representation of ethnic groups in juries may be explained by the fact that local political parties appear reluctant to nominate members of such groups and the fact that five years of residence in Norway and proficiency in Norwegian are prerequisites for jury duty. Counsel opines that this situation should prompt the Norwegian high courts to give special attention to ensuring a fair trial for coloured defendants.

8.4 As to the alleged impartiality of the jurors, counsel subscribes to the analysis of the allegedly racist remark of Ms. J. made by the lawyer who appealed on the author's behalf to the Supreme Court. In his brief to the Interlocutory Appeals Committee, this lawyer argued, by reference to section 135 (a) of the Criminal Code which prohibits public expressions of racism, that remarks such as Ms. J.'s aimed at an accused person are particularly reprehensible if made during the proceedings in front of a member of the audience, and if made in a case such as the author's, who was foreign-born. To this lawyer, Ms. J., when repeating her statement from the witness stand, gave the clear impression of harbouring racial prejudices against persons of foreign origin.

8.5 Counsel further doubts that, given the extremely heavy workload of the Interlocutory Appeals Committee, which handles an average of 16 cases per day, the Appeals Committee really had the time to take into consideration all the relevant factors of the author's case, including those concerning racial discrimination under international law. He further notes that the parties are not represented before the Interlocutory Appeals Committee, which, moreover, does not give any reasons for its decision(s).

8.6 Concerning the evaluation of evidence in the case, counsel notes that Mr. Narrainen was convicted on the basis of one police report and the testimonies of the police officers who had taken the statement of S. B. That this lack of other substantial evidence against Mr. Narrainen raised doubts about his guilt was demonstrated by the fact that one of the three judges in the case found that the guilt of the accused had not been proven beyond reasonable doubt. Counsel argues that it cannot be excluded that some of the jurors had similar doubts; in the circumstances, the presence in the jury of a person who had displayed evidence of bias against the author may easily have tipped the balance.

8.7 In the light of the above, counsel claims that the Norwegian courts violated article 5 (a) of the Convention through the judgement of the High Court of 6 February 1991 and the decision of the Interlocutory Appeals Committee of 7 March 1991. While the juror's remark may not in itself have amounted to a violation of the Convention, the fact that Ms. J. was not removed from the jury constituted a violation of article 5 (a). In this context, counsel refers to the Committee's Opinion in the case of L. K. v. Netherlands, a/ where it was held that the enactment of legislation making racial discrimination a criminal offence does not in itself represent full compliance with the obligations of States parties under the Convention.

8.8 Counsel concludes that the way in which Norwegian juries are constituted does not ensure racial equality, that the remark made by Ms. J. to another juror was evidence of bias against the author because of his origin and colour, and that neither the High Court nor the Interlocutory Appeals Committee devoted appropriate attention to counsel's claim of racial discrimination or properly evaluated the possibility of a violation of Norway's obligations under the Convention.

Examination of the merits

9.1 The Committee has considered the author's case in the light of all the submissions and documentary evidence produced by the parties. It bases its findings on the following considerations.

9.2 The Committee considers that in the present case the principal issue before it is whether the proceedings against Mr. Narrainen respected his right, under article 5 (a) of the Convention, to equal treatment before the tribunals, without distinction as to race, colour or national or ethnic origin. The Committee notes that the rule laid down in article 5 (a) applies to all types of judicial proceedings, including trial by jury. Other allegations put forward by the author of the communication are in the Committee's view outside the scope of the Convention.

9.3 If members of a jury are suspected of displaying or voicing racial bias against the accused, it is incumbent upon the national judicial authorities to investigate the issue and to disqualify the juror if there is a suspicion that the juror might be biased.

9.4 In the present case, the inimical remarks made by juror Ms. J. were brought to the attention of the Eidsivating High Court, which duly suspended the proceedings, investigated the issue and heard testimony about the allegedly inimical statement of Ms. J. In the view of the Committee, the statement of Ms. J. may be seen as an indication of racial prejudice and, in the light of the provision of article 5 (a) of the Convention, the Committee is of the opinion that this remark might have been regarded as sufficient to disqualify the juror. However, the competent judicial bodies of Norway examined the nature of the contested remarks and their potential implications for the course of the trial.

9.5 Taking into account that it is neither the function of the Committee to interpret the Norwegian rules on criminal procedure concerning the disqualification of jurors, nor to decide as to whether the juror had to be disqualified on that basis, the Committee is unable to conclude, on the basis of the information before it, that a breach of the Convention has occurred. However, in the light of the observations made in paragraph 9.4, the Committee makes the following recommendations pursuant to article 14, paragraph 7, of the Convention.

10. The Committee recommends to the State party that every effort should be made to prevent any form of racial bias from entering into judicial proceedings which might result in adversely affecting the administration of justice on the basis of equality and non-discrimination. Consequently, the Committee recommends that in criminal cases like the one it has examined due attention be given to the impartiality of juries, in line with the principles underlying article 5 (a) of the Convention.

Notes

a/ Communication No. 4/1991 (L.K. v. Netherlands), Opinion adopted on 16 March 1993, paragraph 6.4.

ANNEX V

Letter from the Chairman of the Committee on the Elimination of Racial Discrimination to the Ministers for Foreign Affairs of Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Lithuania, Tajikistan, Turkmenistan and Uzbekistan

25 May 1994

Excellency,

I have the honour to recall that the Union of Soviet Socialist Republics had been a State party to the International Convention on the Elimination of All Forms of Racial Discrimination and that, consequently, the protections against racial discrimination had extended prior to the latter's dissolution to the inhabitants of the present territory of ...

The Committee on the Elimination of Racial Discrimination, which is responsible for monitoring the implementation of the Convention, considers it of the utmost importance that the applicability and compliance with the Convention's provisions in ... be confirmed as soon as possible. I wish, therefore, on behalf of the Committee, to invite Your Excellency's Government to make the appropriate notification to the Secretary-General of the United Nations, who is the Depositary of the Convention.

Accept, Excellency, the assurances of my highest consideration.

(*Signed*) Ivan Garvalov
Chairman
Committee on the Elimination
of Racial Discrimination

ANNEX VI

List of documents issued for the forty-fourth and forty-fifth sessions of the Committee

CERD/C/222/Add.2	Additional information submitted by the Sudan
CERD/C/223/Add.1	Ninth periodic report of Australia
CERD/C/224/Add.1	Seventh, eighth, ninth and tenth periodic reports of Trinidad and Tobago, submitted in one document
CERD/C/225/Add.3	Eighth, ninth, tenth and eleventh periodic reports of Peru, submitted in one document
CERD/C/234/Add.1	Third, fourth, fifth and sixth periodic reports of Sri Lanka, submitted in one document
CERD/C/236/Add.1	Eighth periodic report of Luxembourg
CERD/C/240/Add.1	Twelfth periodic report of Canada
CERD/C/250	Provisional agenda and annotations of the forty-fourth session of the Committee on the Elimination of Racial Discrimination
CERD/C/251	Submission of reports by States parties in accordance with article 9 of the Convention: note by the Secretary-General
CERD/C/252	Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other Territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention: note by the Secretary-General
CERD/C/256/Add.1	Second, third, fourth, fifth and sixth periodic reports of Guatemala, submitted in one document
CERD/C/263/Add.1	Eleventh, twelfth and thirteenth periodic reports of Cyprus, submitted in one document
CERD/C/263/Add.2	Thirteenth periodic report of Iceland
CERD/C/264	Provisional agenda and annotations of the forty-fifth session of the Committee on the Elimination of Racial Discrimination
CERD/C/265	Submission of reports by States parties in accordance with article 9 of the Convention: note by the Secretary-General

CERD/C/266	Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other Territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention: note by the Secretary-General
CERD/C/SR.1013-1069	Summary records of the forty-fourth and forty-fifth sessions

ANNEX VII

Documents received by the Committee on the Elimination of Racial Discrimination at its forty-fourth and forty-fifth sessions in conformity with article 15 of the Convention

The following is a list of the working papers submitted by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples:

African Territories	Document
Western Sahara	A/AC.109/1163
Atlantic Ocean and Caribbean Territories, including Gibraltar	
Anguilla	A/AC.109/1181
Bermuda	A/AC.109/1189
British Virgin Islands	A/AC.109/1180
Cayman Islands	A/AC.109/1190
Falkland Islands (Malvinas)	A/AC.109/1168 and Corr.1
Gibraltar	A/AC.109/1164
Montserrat	A/AC.109/1188
Saint Helena	A/AC.109/1182
Turks and Caicos Islands	A/AC.109/1185
United States Virgin Islands	A/AC.109/1183
Pacific and Indian Ocean Territories	
American Samoa	A/AC.109/1186
East Timor	A/AC.109/1154
Guam	A/AC.109/1192
New Caledonia	A/AC.109/1170
Pitcairn	A/AC.109/1146
Tokelau	A/AC.109/1193

ANNEX VIII

Country rapporteurs for reports considered by the Committee at its forty-fourth and forty-fifth sessions

Reports considered by the Committee	Country rapporteur
AFGHANISTAN Review based on the initial report (CERD/C/111/Add.3)	Mr. Michael Parker Banton
AUSTRALIA Ninth periodic report, due in 1992 (CERD/C/223/Add.1)	Mr. Michael Parker Banton
BARBADOS Review based on the seventh periodic report (CERD/C/131/Add.13)	Mr. Luis Valencia Rodriguez
BURUNDI Information requested under article 9, paragraph 1, of the Convention	Mrs. Shanti Sadiq Ali
CANADA Eleventh (CERD/C/210/Add.2) and twelfth (CERD/C/240/Add.1) periodic reports	Mr. Rüdiger Wolfrum
CHAD Review based on the fourth periodic report (CERD/C/114/Add.2)	Mr. Régis de Gouttes
EGYPT Eleventh and twelfth periodic reports, submitted in one document (CERD/C/226/Add.13)	Mr. Rüdiger Wolfrum
FRANCE Ninth, tenth and eleventh periodic reports, submitted in one document (CERD/C/225/Add.2)	Mr. Mario Jorge Yutzis
ICELAND Tenth, eleventh and twelfth periodic reports, submitted in one document (CERD/C/226/Add.12), and the thirteenth periodic report (CERD/C/263/Add.2)	Mr. Luis Valencia Rodriguez
ISRAEL Information requested under article 9, paragraph 1, of the Convention	Mr. Theodoor van Boven

Reports considered by the Committee	Country rapporteur
LUXEMBOURG Sixth and seventh periodic reports, submitted in one document (CERD/C/206/Add.1), and the eighth periodic report (CERD/C/236/Add.1)	Mr. Ion Diaconu
MALI Review based on the sixth periodic report (CERD/C/130/Add.2)	Mr. Ion Diaconu
MAURITIUS Review based on the seventh periodic report (CERD/C/131/Add.8)	Mrs. Shanti Sadiq Ali
MOROCCO Ninth, tenth and eleventh periodic reports, submitted in one document (CERD/C/225/Add.1)	Mr. Ivan Garvalov
NORWAY Tenth and eleventh periodic reports, submitted in one document (CERD/C/210/Add.3)	Mr. Michael Parker Banton
PAPUA NEW GUINEA Information requested under article 9, paragraph 1, of the Convention	Mr. Rüdiger Wolfrum
RWANDA Information requested under article 9, paragraph 1, of the Convention	Mr. Michael Parker Banton
SENEGAL Ninth and tenth periodic reports submitted in one document (CERD/C/209/Add.7)	Mr. Ion Diaconu
SPAIN Tenth, eleventh and twelfth periodic reports, submitted in one document (CERD/C/226/Add.11)	Mr. Eduardo Ferrero Costa
SUDAN Additional information requested under article 9, paragraph 1, of the Convention (CERD/C/222/Add.2)	Mrs. Shanti Sadiq Ali
SWEDEN Eleventh periodic report, due in 1993 (CERD/C/239/Add.1)	Mr. Yuri Rechetov

Reports considered by the Committee	Country rapporteur
TUNISIA Ninth, tenth, eleventh and twelfth periodic reports submitted in one document (CERD/C/226/Add.10)	Mr. Ion Diaconu
UNITED ARAB EMIRATES Review based on the sixth periodic report (CERD/C/130/Add.1)	Mr. Régis de Gouttes

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